

TEMPORARY REDUCTION IN DIVERSITY VISAS

Pub. L. 105-100, title II, §203(d), Nov. 19, 1997, 111 Stat. 2199, as amended by Pub. L. 105-139, §1(d), Dec. 2, 1997, 111 Stat. 2644; Pub. L. 118-31, div. E, title LI, §5104(c), Dec. 22, 2023, 137 Stat. 938, provided that:

“(1) Beginning in fiscal year 1999, subject to paragraph (2), the number of visas available for a fiscal year under section 201(e) of the Immigration and Nationality Act [8 U.S.C. 1151(e)] shall be reduced by 5,000 from the number of visas otherwise available under that section for such fiscal year.

“(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

“(A) the sum of—

“(i) one-half of the total number of individuals described in subclauses (I), (II), (III), and (IV) of section 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note; Public Law 104-208) who have adjusted their status to that of aliens lawfully admitted for permanent residence under section 202 of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105-100; 8 U.S.C. 1255 note) as of the end of the previous fiscal year; and

“(ii) the total number of individuals described in section 101(a)(27)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(D)) for whom visas shall have been made available under section 5104 of the National Defense Authorization Act for Fiscal Year 2024 [Pub. L. 118-31, 8 U.S.C. 1153 note] as of the end of the previous fiscal year; exceeds

“(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

“(3)(A) Paragraph (1) shall not apply in a fiscal year following a fiscal year for which the sum calculated under paragraph (2)(A), minus the number in paragraph (2)(B), is zero.

“(B) Nothing in this paragraph may be construed—

“(i) to repeal, modify, or render permanently inapplicable paragraph (1); or

“(ii) to prevent the offsetting of the number of visas described in that paragraph for the purpose of providing visa availability for aliens described in section 5104 of the National Defense Authorization Act for Fiscal Year 2024 [Pub. L. 118-31, 8 U.S.C. 1153 note].

“(4) In the event that the number of visas available for a fiscal year under section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)) is reduced to a number fewer than 50,000, not fewer than 3,000 of such visas shall be made available for individuals described in section 5104 of the National Defense Authorization Act for Fiscal Year 2024.”

TRANSITION RELATING TO DEATH OF CITIZEN SPOUSE

Pub. L. 101-649, title I, §101(c), as added by Pub. L. 102-232, title III, §302(a)(2), Dec. 12, 1991, 105 Stat. 1742, provided that: “In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act [8 U.S.C. 1151(b)(2)(A)(i)] (as amended by subsection (a)) in the case of a [sic] alien whose citizen spouse died before the date of the enactment of this Act [Nov. 29, 1990], notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.”

INAPPLICABILITY OF NUMERICAL LIMITATIONS FOR CERTAIN ALIENS RESIDING IN THE UNITED STATES VIRGIN ISLANDS

The numerical limitations described in subsec. (a) of this section not to apply in the case of certain aliens residing in the Virgin Islands seeking adjustment of their status to permanent resident alien status, and such adjustment of status not to result in any reduction in the number of aliens who may acquire the status of aliens lawfully admitted to the United States for permanent residence under this chapter, see section

2(c)(1) of Pub. L. 97-271, set out as a note under section 1255 of this title.

EXEMPTION FROM NUMERICAL LIMITATIONS FOR CERTAIN ALIENS WHO APPLIED FOR ADJUSTMENT TO STATUS OF PERMANENT RESIDENT ALIENS ON OR BEFORE JUNE 1, 1978

Pub. L. 97-116, §19, Dec. 29, 1981, 95 Stat. 1621, provided that: “The numerical limitations contained in sections 201 and 202 of the Immigration and Nationality Act [sections 1151 and 1152 of this title] shall not apply to any alien who is present in the United States and who, on or before June 1, 1978—

“(1) qualified as a nonpreference immigrant under section 203(a)(8) of such Act [section 1153(a)(8) of this title] (as in effect on June 1, 1978);

“(2) was determined to be exempt from the labor certification requirement of section 212(a)(14) of such Act [former section 1182(a)(14) of this title] because the alien had actually invested, before such date, capital in an enterprise in the United States of which the alien became a principal manager and which employed a person or persons (other than the spouse or children of the alien) who are citizens of the United States or aliens lawfully admitted for permanent residence; and

“(3) applied for adjustment of status to that of an alien lawfully admitted for permanent residence.”

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Pub. L. 95-412, §4, Oct. 5, 1978, 92 Stat. 907, as amended by Pub. L. 96-132, §23, Nov. 30, 1979, 93 Stat. 1051, provided for the establishment of a Select Commission on Immigration and Refugee Policy to study and evaluate existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States, to make such administrative and legislative recommendations to the President and Congress as appropriate, and to submit a final report no later than Mar. 1, 1981, at which time it ceased to exist although it was authorized to function for up to 60 days thereafter to wind up its affairs.

SELECT COMMISSION ON WESTERN HEMISPHERE IMMIGRATION

Pub. L. 89-236, §21(a)-(d), (f)-(h), Oct. 3, 1965, 79 Stat. 920, 921, established a Select Commission on Western Hemisphere Immigration to study the operation of the immigration laws of the United States as they pertain to Western Hemisphere nations, with emphasis on the adequacy of such laws from the standpoint of fairness and the impact of such laws on employment and working conditions within the United States, and to make a final report to the President on or before Jan. 15, 1968, and terminate not later than 60 days after filing the final report.

TERMINATION OF QUOTA DEDUCTIONS

Pub. L. 85-316, §10, Sept. 11, 1957, 71 Stat. 642, provided that the quota deductions required under the provisions of former subsec. (e) of this section, the Displaced Persons Act of 1948, the act of June 30, 1950, and the act of April 9, 1952, were terminated effective July 1, 1957.

§ 1151a. Repealed. Pub. L. 94-571, §7(g), Oct. 20, 1976, 90 Stat. 2706

Section, Pub. L. 89-236, §21(e), Oct. 3, 1965, 79 Stat. 921, limited total number of special immigrants under section 1101(a)(27)(A) of this title, less certain exclusions, to 120,000 for fiscal years beginning July 1, 1968, or later.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 60 days after Oct. 20, 1976, see section 10

of Pub. L. 94-571, set out as an Effective Date of 1976 Amendment note under section 1101 of this title.

§ 1152. Numerical limitations on individual foreign states

(a) Per country level

(1) Nondiscrimination

(A) Except as specifically provided in paragraph (2) and in sections 1101(a)(27), 1151(b)(2)(A)(i), and 1153 of this title, no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth, or place of residence.

(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.

(2) Per country levels for family-sponsored and employment-based immigrants

Subject to paragraphs (3), (4), and (5), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsections (a) and (b) of section 1153 of this title in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsections in that fiscal year.

(3) Exception if additional visas available

If because of the application of paragraph (2) with respect to one or more foreign states or dependent areas, the total number of visas available under both subsections (a) and (b) of section 1153 of this title for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, paragraph (2) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.

(4) Special rules for spouses and children of lawful permanent resident aliens

(A) 75 percent of 2nd preference set-aside for spouses and children not subject to per country limitation

(i) In general

Of the visa numbers made available under section 1153(a) of this title to immigrants described in section 1153(a)(2)(A) of this title in any fiscal year, 75 percent of the 2-A floor (as defined in clause (ii)) shall be issued without regard to the numerical limitation under paragraph (2).

(ii) "2-A floor" defined

In this paragraph, the term "2-A floor" means, for a fiscal year, 77 percent of the total number of visas made available under section 1153(a) of this title to immigrants described in section 1153(a)(2) of this title in the fiscal year.

(B) Treatment of remaining 25 percent for countries subject to subsection (e)

(i) In general

Of the visa numbers made available under section 1153(a) of this title to immi-

grants described in section 1153(a)(2)(A) of this title in any fiscal year, the remaining 25 percent of the 2-A floor shall be available in the case of a state or area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or area is less than the subsection (e) ceiling (as defined in clause (ii)).

(ii) "Subsection (e) ceiling" defined

In clause (i), the term "subsection (e) ceiling" means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 1153(a) of this title to immigrants who are natives of the state or area under section 1153(a)(2) of this title consistent with subsection (e).

(C) Treatment of unmarried sons and daughters in countries subject to subsection (e)

In the case of a foreign state or dependent area to which subsection (e) applies, the number of immigrant visas that may be made available to natives of the state or area under section 1153(a)(2)(B) of this title may not exceed—

(i) 23 percent of the maximum number of visas that may be made available under section 1153(a) of this title to immigrants of the state or area described in section 1153(a)(2) of this title consistent with subsection (e), or

(ii) the number (if any) by which the maximum number of visas that may be made available under section 1153(a) of this title to immigrants of the state or area described in section 1153(a)(2) of this title consistent with subsection (e) exceeds the number of visas issued under section 1153(a)(2)(A) of this title,

whichever is greater.

(D) Limiting pass down for certain countries subject to subsection (e)

In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 1153(a)(2) of this title exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 1153(a)(2) of this title consistent with subsection (e) (determined without regard to this paragraph), in applying paragraphs (3) and (4) of section 1153(a) of this title under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraphs (1) and (2) of such section.

(5) Rules for employment-based immigrants

(A) Employment-based immigrants not subject to per country limitation if additional visas available

If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 1153(b) of this title for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to