

(b) of the Immigration and Nationality Act [section 1101(a), (b) of this title] shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any other law relating to immigration, nationality, or naturalization.

“SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976 [see Effective Date of 1976 Amendment note above].”

[Pub. L. 109-162, title VIII, §823(b), Jan. 5, 2006, 119 Stat. 3063, provided that: “The amendment made by subsection (a)(1) [amending Pub. L. 89-732 set out above] shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).”]

[Pub. L. 106-386, div. B, title V, §1509(b), Oct. 28, 2000, 114 Stat. 1531, provided that: “The amendment made by subsection (a) [amending Pub. L. 89-732 set out above] shall be effective as if included in subtitle G [§40701 et seq.] of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq. [see Tables for classification].)”]

[Pub. L. 96-212, title II, §204(b)(1)(C), Mar. 17, 1980, 94 Stat. 108, provided that the amendment made by section 204(b)(1)(C) to section 1 of Pub. L. 89-732, set out above, is effective immediately before Apr. 1, 1980.]

**§ 1255a. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence**

**(a) Temporary resident status**

The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

**(1) Timely application**

**(A) During application period**

Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after November 6, 1986) designated by the Attorney General.

**(B) Application within 30 days of show-cause order**

An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 1252 of this title (as in effect before October 1, 1996), must make application under this section not later than the end of the 30-day period beginning either on the first day of such 12-month period or on the date of the issuance of such order, whichever day is later.

**(C) Information included in application**

Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at

any later date under section 1154(a) of this title.

**(2) Continuous unlawful residence since 1982**

**(A) In general**

The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

**(B) Nonimmigrants**

In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

**(C) Exchange visitors**

If the alien was at any time a nonimmigrant exchange alien (as defined in section 1101(a)(15)(J) of this title), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 1182(e) of this title or has fulfilled that requirement or received a waiver thereof.

**(3) Continuous physical presence since November 6, 1986**

**(A) In general**

The alien must establish that the alien has been continuously physically present in the United States since November 6, 1986.

**(B) Treatment of brief, casual, and innocent absences**

An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

**(C) Admissions**

Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

**(4) Admissible as immigrant**

The alien must establish that he—

(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(D) is registered or registering under the Military Selective Service Act [50 U.S.C. 3801 et seq.], if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant de-

scribed in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 [8 U.S.C. 1522 note] shall be considered to have entered the United States and to be in an unlawful status in the United States.

**(b) Subsequent adjustment to permanent residence and nature of temporary resident status**

**(1) Adjustment to permanent residence**

The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

**(A) Timely application after one year's residence**

The alien must apply for such adjustment during the 2-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

**(B) Continuous residence**

**(i) In general**

The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

**(ii) Treatment of certain absences**

An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

**(C) Admissible as immigrant**

The alien must establish that he—

(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

**(D) Basic citizenship skills**

**(i) In general**

The alien must demonstrate that he either—

(I) meets the requirements of section 1423(a) of this title (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

**(ii) Exception for elderly or developmentally disabled individuals**

The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older or who is developmentally disabled.

**(iii) Relation to naturalization examination**

In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 1423(a) of this title may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under subchapter III.

**(2) Termination of temporary residence**

The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

(C) at the end of the 43rd month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

**(3) Authorized travel and employment during temporary residence**

During the period an alien is in lawful temporary resident status granted under subsection (a)—

**(A) Authorization of travel abroad**

The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

**(B) Authorization of employment**

The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an “employment authorized” endorsement or other appropriate work permit.

**(c) Applications for adjustment of status**

**(1) To whom may be made**

The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

(A) with the Attorney General, or

(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

As used in this section, the term “qualified designated entity” means an organization or person designated under paragraph (2).

**(2) Designation of qualified entities to receive applications**

For purposes of assisting in the program of legalization provided under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 1159 or 1255 of this title, Public Law 89-732 [8 U.S.C. 1255 note], or Public Law 95-145 [8 U.S.C. 1255 note].

**(3) Treatment of applications by designated entities**

Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

**(4) Limitation on access to information**

Files and records of qualified designated entities relating to an alien's seeking assistance or information with respect to filing an application under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

**(5) Confidentiality of information****(A) In general**

Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, for enforcement of paragraph (6), or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986;

(ii) make any publication whereby the information furnished by any particular applicant can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

**(B) Required disclosures**

The Attorney General shall provide the information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by

such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

**(C) Authorized disclosures**

The Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13.

**(D) Construction****(i) In general**

Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

**(ii) Criminal convictions**

Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

**(E) Crime**

Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than \$10,000.

**(6) Penalties for false statements in applications**

Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18 or imprisoned not more than five years, or both.

**(7) Application fees****(A) Fee schedule**

The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1). The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) after the end of the first year of the 2-year period described in subsection (b)(1)(A).

**(B) Use of fees**

The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and

other expenses incurred in connection with the review of applications filed under this section.

**(C) Immigration-related unfair employment practices**

Not to exceed \$3,000,000 of the unobligated balances remaining in the account established in subparagraph (B) shall be available in fiscal year 1992 and each fiscal year thereafter for grants, contracts, and cooperative agreements to community-based organizations for outreach programs, to be administered by the Office of Special Counsel for Immigration-Related Unfair Employment Practices: *Provided*, That such amounts shall be in addition to any funds appropriated to the Office of Special Counsel for such purposes: *Provided further*, That none of the funds made available by this section shall be used by the Office of Special Counsel to establish regional offices.

**(d) Waiver of numerical limitations and certain grounds for exclusion**

**(1) Numerical limitations do not apply**

The numerical limitations of sections 1151 and 1152 of this title shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

**(2) Waiver of grounds for exclusion**

In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

**(A) Grounds of exclusion not applicable**

The provisions of paragraphs (5) and (7)(A) of section 1182(a) of this title shall not apply.

**(B) Waiver of other grounds**

**(i) In general**

Except as provided in clause (ii), the Attorney General may waive any other provision of section 1182(a) of this title in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

**(ii) Grounds that may not be waived**

The following provisions of section 1182(a) of this title may not be waived by the Attorney General under clause (i):

(I) Paragraphs (2)(A) and (2)(B) (relating to criminals).

(II) Paragraph (2)(C) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(III) Paragraph (3) (relating to security and related grounds).

(IV) Paragraph (4) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence.

Subclause (IV) (prohibiting the waiver of section 1182(a)(4) of this title) shall not apply to an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act [42 U.S.C. 1382c(a)(1)]).

**(iii) Special rule for determination of public charge**

An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 1182(a)(4) of this title if the alien demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance.

**(C) Medical examination**

The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

**(e) Temporary stay of deportation and work authorization for certain applicants**

**(1) Before application period**

The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

**(2) During application period**

The Attorney General shall provide that in the case of an alien who presents a prima facie application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

**(f) Administrative and judicial review**

**(1) Administrative and judicial review**

There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

**(2) No review for late filings**

No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

**(3) Administrative review****(A) Single level of administrative appellate review**

The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a determination described in paragraph (1).

**(B) Standard for review**

Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

**(4) Judicial review****(A) Limitation to review of deportation**

There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 1105a of this title (as in effect before October 1, 1996).

**(B) Standard for judicial review**

Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

**(C) Jurisdiction of courts**

Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that officer.

**(g) Implementation of section****(1) Regulations**

The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

(A) regulations establishing a definition of the term “resided continuously”, as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

(B) such other regulations as may be necessary to carry out this section.

**(2) Considerations**

In prescribing regulations described in paragraph (1)(A)—

**(A) Periods of continuous residence**

The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be

considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

**(B) Absences caused by deportation or advanced parole**

The Attorney General shall provide that—

(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.

**(C) Waivers of certain absences**

The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

**(D) Use of certain documentation**

The Attorney General shall require that—

(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

**(3) Interim final regulations**

Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

**(h) Temporary disqualification of newly legalized aliens from receiving certain public welfare assistance****(1) In general**

During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the State program of as-

sistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.],

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and

(iii) assistance under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.]; and

(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

## **(2) Exceptions**

Paragraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 [8 U.S.C. 1255 note], as in effect on April 1, 1983), or

(B) in the case of assistance (other than assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act [42 U.S.C. 1382c(a)(1)]).

## **(3) Restricted medicaid benefits**

### **(A) Clarification of entitlement**

Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

(i) paragraph (1) shall not apply,

(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], to be so eligible, and

(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

### **(B) Restriction of benefits**

#### **(i) Limitation to emergency services and services for pregnant women**

Notwithstanding any provision of title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act [42 U.S.C. 1396a(a)(10)(B), (C)]), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act [42 U.S.C. 1396o(a)(2)(D)]), and

(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

#### **(ii) No restriction for exempt aliens and children**

The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

### **(C) Definition of medical assistance**

In this paragraph, the term “medical assistance” refers to medical assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

## **(4) Treatment of certain programs**

Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

(A) The Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.].

(B) The Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(C) The The<sup>1</sup> Carl D. Perkins Career and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.].

(D) Title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(E) The Headstart-Follow Through Act [42 U.S.C. 2921 et seq.].

(F) Title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.].

(G) Title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.].

(H) The Public Health Service Act [42 U.S.C. 201 et seq.].

(I) Titles V, XVI, and XX [42 U.S.C. 701 et seq., 1381 et seq., 1397 et seq.], and parts B, D, and E of title IV [42 U.S.C. 620 et seq., 651 et seq., 670 et seq.], of the Social Security Act (and titles I, X, XIV, and XVI of such Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.] as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

## **(5) Adjustment not affecting Fascell-Stone benefits**

For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122)<sup>2</sup> [8 U.S.C. 1255 note], assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

## **(i) Dissemination of information on legalization program**

Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

<sup>1</sup> So in original.

<sup>2</sup> So in original. Probably should be “(Public Law 96-422)”.

(June 27, 1952, ch. 477, title II, ch. 5, §245A, as added Pub. L. 99-603, title II, §201(a)(1), Nov. 6, 1986, 100 Stat. 3394; amended Pub. L. 100-525, §2(h)(1), Oct. 24, 1988, 102 Stat. 2611; Pub. L. 101-649, title VI, §603(a)(13), title VII, §703, Nov. 29, 1990, 104 Stat. 5083, 5086; Pub. L. 102-140, title I, Oct. 28, 1991, 105 Stat. 785; Pub. L. 102-232, title III, §307(l)(6), Dec. 12, 1991, 105 Stat. 1756; Pub. L. 103-382, title III, §394(g), Oct. 20, 1994, 108 Stat. 4028; Pub. L. 103-416, title I, §108(b), title II, §219(l)(1), Oct. 25, 1994, 108 Stat. 4310, 4317; Pub. L. 104-132, title IV, §431(a), Apr. 24, 1996, 110 Stat. 1273; Pub. L. 104-193, title I, §110(s)(2), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 104-208, div. C, title III, §§308(g)(2)(B), (5)(A)(iii), 377(a), 384(d)(1), title VI, §623(a), Sept. 30, 1996, 110 Stat. 3009-622, 3009-623, 3009-649, 3009-653, 3009-696; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(4), (f)(4)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-419, 2681-430; Pub. L. 105-332, §3(a), Oct. 31, 1998, 112 Stat. 3125; Pub. L. 106-78, title VII, §752(b)(5), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 109-270, §2(a), Aug. 12, 2006, 120 Stat. 746; Pub. L. 110-234, title IV, §4002(b)(1)(B), (2)(J), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (2)(J), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 113-128, title V, §512(q), July 22, 2014, 128 Stat. 1712.)

### Editorial Notes

#### REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a)(4)(D), is act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

Public Law 96-422, referred to in subsecs. (a) and (h)(2)(A), (5), is Pub. L. 96-422, Oct. 10, 1980, 94 Stat. 1799, which is known as the Refugee Education Assistance Act of 1980, and is set out as a note under section 1522 of this title.

Public Law 89-732, referred to in subsec. (c)(2)(B), is Pub. L. 89-732, Nov. 2, 1966, 80 Stat. 1161, which is set out as a note under section 1255 of this title.

Public Law 95-145, referred to in subsec. (c)(2)(B), is Pub. L. 95-145, Oct. 28, 1977, 91 Stat. 1223. Title I of Pub. L. 95-145 is set out as a note under section 1255 of this title. Title II of Pub. L. 95-145 amended Pub. L. 94-23, which was set out as a note under section 2601 of Title 22, Foreign Relations and Intercourse, and was repealed by Pub. L. 96-212, title III, §312(c), Mar. 17, 1980, 94 Stat. 117.

Section 404 of the Immigration Reform and Control Act of 1986, referred to in subsec. (c)(5)(A)(i), is section 404 of Pub. L. 99-603 which is set out as a note below.

Section 1105a of this title, referred to in subsec. (f)(4)(A), was repealed by Pub. L. 104-208, div. C, title III, §306(b), Sept. 30, 1996, 110 Stat. 3009-612.

The Social Security Act, referred to in subsec. (h)(1)(A), (2)(B), (3)(A)(ii), (B)(i), (C), (4)(I), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A, B, D, and E of title IV of the Social Security Act are classified generally to parts A (§601 et seq.), B (§620 et seq.), D (§651 et seq.), and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Titles I, V, X, XIV, XVI, XIX, and XX of the Social Security Act are classified generally to subchapters I (§301 et seq.), V (§701 et seq.), X (§1201 et seq.), XIV (§1351 et seq.), XVI (§1381 et seq.), XIX (§1396 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 301 of the Social Security Amendments of 1972, referred to in subsec. (h)(4)(I), is section 301 of Pub. L. 92-603, title III, Oct. 30, 1972, 86 Stat. 1465, which

enacted sections 1381 to 1382e and 1383 to 1383c of Title 42.

The Food and Nutrition Act of 2008, referred to in subsec. (h)(1)(A)(iii), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (h)(4)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (h)(4)(B), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (h)(4)(C), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (h)(4)(D), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Headstart-Follow Through Act, referred to in subsec. (h)(4)(E), is title V of Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 527, which was classified generally to subchapter V (§2921 et seq.) of chapter 34 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (h)(4)(F), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Higher Education Act of 1965, referred to in subsec. (h)(4)(G), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (h)(4)(H), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### PRIOR PROVISIONS

A prior section 1255a, Pub. L. 85-316, §9, Sept. 11, 1957, 71 Stat. 641, provided for adjustment of status of certain resident aliens to that of a person admitted for permanent residence, the recording by Attorney General of alien's lawful admission for permanent residence, and for granting of nonquota status to spouse

and children, prior to repeal, eff. 180 days after Sept. 26, 1961, by Pub. L. 87–301, § 24(a)(5), (b), Sept. 26, 1961, 75 Stat. 657.

#### AMENDMENTS

2014—Subsec. (h)(4)(F). Pub. L. 113–128 substituted “Title I of the Workforce Innovation and Opportunity Act” for “Title I of the Workforce Investment Act of 1998”.

2008—Subsec. (h)(1)(A)(iii). Pub. L. 110–246, § 4002(b)(1)(B), (2)(J), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (h)(4)(C). Pub. L. 109–270 substituted “The Carl D. Perkins Career and Technical Education Act of 2006” for “Carl D. Perkins Vocational and Technical Education Act of 1998”.

1999—Subsec. (h)(4)(A). Pub. L. 106–78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

1998—Subsec. (h)(4)(C). Pub. L. 105–332 substituted “Carl D. Perkins Vocational and Technical Education Act of 1998” for “Vocational Education Act of 1963”.

Subsec. (h)(4)(F). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(4)], substituted “Title I” for “The Job Training Partnership Act or title I”.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(4)], substituted “The Job Training Partnership Act or title I of the Workforce Investment Act of 1998.” for “The Job Training Partnership Act.”

1996—Subsec. (a)(1)(B). Pub. L. 104–208, § 308(g)(5)(A)(iii), inserted “(as in effect before October 1, 1996)” after “section 1252 of this title”.

Subsec. (c)(5). Pub. L. 104–208, § 623(a), amended heading and text of par. (5) generally, substituting subpars. (A) to (E) for former par. consisting of introductory and concluding provisions and subpars. (A) to (C), relating to confidentiality of information.

Pub. L. 104–208, § 384(d)(1), substituted “Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than \$5,000 for each violation.” for “Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18 or imprisoned not more than five years, or both.” in concluding provisions.

Pub. L. 104–132, § 431(a)(2), which directed the insertion of “and” and cl. (ii) after “Title 13”, was executed by making the insertion after “title 13” in concluding provisions to reflect the probable intent of Congress. Cl. (ii) read as follows: “may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

“(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

“(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.”

Pub. L. 104–132, § 431(a)(1), which directed amendment by inserting “(i)” after “except the Attorney General”, was executed by making the insertion after “except that the Attorney General” in concluding provisions to reflect the probable intent of Congress.

Subsec. (f)(4)(A). Pub. L. 104–208, § 308(g)(2)(B), inserted “(as in effect before October 1, 1996)” after “section 1105a of this title”.

Subsec. (f)(4)(C). Pub. L. 104–208, § 377(a), added subpar. (C).

Subsec. (h)(1)(A)(i). Pub. L. 104–193, § 110(s)(2)(A), substituted “State program of assistance” for “program of aid to families with dependent children”.

Subsec. (h)(2)(B). Pub. L. 104–193, § 110(s)(2)(B), substituted “assistance under a State program funded under part A of title IV of the Social Security Act” for “aid to families with dependent children”.

1994—Subsec. (b)(1)(D)(i)(I), (iii). Pub. L. 103–416, § 108(b), substituted “1423(a)” for “1423”.

Subsec. (c)(7)(C). Pub. L. 103–416, § 219(l)(1), realigned margins and substituted “subparagraph (B)” for “subsection (B)”.

Subsec. (h)(4)(D). Pub. L. 103–382 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “Chapter 1 of the Education Consolidation and Improvement Act of 1981.”

1991—Subsec. (c)(7)(C). Pub. L. 102–140, which directed the addition “after subsection (B)” of “a new subsection” (C), was executed by adding subpar. (C) after subpar. (B) to reflect the probable intent of Congress.

Subsec. (d)(2)(B)(ii). Pub. L. 102–232, substituted “Subclause (IV)” for “Subclause (II)” in last sentence, added subcl. (III), redesignated former subcl. (III) as (II) and former subcl. (II) as (IV), and struck out former subcl. (IV) which read as follows: “Paragraphs (3) (relating to security and related grounds), other than subparagraph (E) thereof.”

1990—Subsec. (b)(1)(A). Pub. L. 101–649, § 703(a)(1), substituted “2-year period” for “one-year period”.

Subsec. (b)(2)(C). Pub. L. 101–649, § 703(a)(2), substituted “43rd” for “thirty-first”.

Subsec. (c)(7)(A). Pub. L. 101–649, § 703(b), inserted at end “The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) of this section after the end of the first year of the 2-year period described in subsection (b)(1)(A) of this section.”

Subsec. (d)(2)(A). Pub. L. 101–649, § 603(a)(13)(A), substituted “(5) and (7)(A)” for “(14), (20), (21), (25), and (32)”.

Subsec. (d)(2)(B)(ii). Pub. L. 101–649, § 603(a)(13)(G), substituted “1182(a)(4)” for “1182(a)(15)” in last sentence.

Subsec. (d)(2)(B)(ii)(I). Pub. L. 101–649, § 603(a)(13)(B), substituted “Paragraphs (2)(A) and (2)(B)” for “Paragraphs (9) and (10)”.

Subsec. (d)(2)(B)(ii)(II). Pub. L. 101–649, § 603(a)(13)(C), substituted “(4)” for “(15)”.

Subsec. (d)(2)(B)(ii)(III). Pub. L. 101–649, § 603(a)(13)(D), substituted “(2)(C)” for “(23)”.

Subsec. (d)(2)(B)(ii)(IV). Pub. L. 101–649, § 603(a)(13)(E), substituted “(3) (relating to security and related grounds), other than subparagraph (E) thereof” for “(27), (28), and (29) (relating to national security and members of certain organizations)”.

Subsec. (d)(2)(B)(ii)(V). Pub. L. 101–649, § 603(a)(13)(F), struck out subcl. (V) which referred to par. (33).

Subsec. (d)(2)(B)(iii). Pub. L. 101–649, § 603(a)(13)(H), substituted “1182(a)(4)” for “1182(a)(15)”.

1988—Subsec. (a)(1)(B). Pub. L. 100–525, § 2(h)(1)(A), substituted “12-month” for “18-month”.

Subsec. (b)(1)(D)(ii). Pub. L. 100–525, § 2(h)(1)(B), inserted references to developmentally disabled in heading and text.

Subsec. (c)(1). Pub. L. 100–525, § 2(h)(1)(C), amended closing provisions generally without change.

Subsec. (c)(5). Pub. L. 100–525, § 2(h)(1)(D)(ii), substituted semicolon for period at end of first sentence and inserted “except that the Attorney General may provide, in the Attorney General’s discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13.”

Subsec. (c)(5)(A). Pub. L. 100–525, § 2(h)(1)(D)(i), inserted “or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986” after “paragraph (6)”.

Subsec. (d)(2)(B)(ii). Pub. L. 100–525, § 2(h)(1)(E)(ii), inserted at end “Subclause (II) (prohibiting the waiver of section 1182(a)(15) of this title) shall not apply to an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).”

Subsec. (d)(2)(B)(ii)(II). Pub. L. 100–525, § 2(h)(1)(E)(i), struck out “by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93–66 for the month in which such alien is granted lawful temporary residence



status under subsection (a) of this section” after “permanent residence”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(J) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(4)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(4)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

##### EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 308(g)(2)(B), (5)(A)(iii) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

Pub. L. 104-208, div. C, title III, § 377(b), Sept. 30, 1996, 110 Stat. 3009-649, provided that: “The amendment made by subsection (a) [amending this section] shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986 [Pub. L. 99-603].”

Amendment by section 384(d)(1) of Pub. L. 104-208 applicable to offenses occurring on or after Sept. 30, 1996, see section 384(d)(2) of Pub. L. 104-208, set out as a note under section 1160 of this title.

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 219(l)(1) of Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

##### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-232, title III, § 307(l), Dec. 12, 1991, 105 Stat. 1756, provided that the amendment made by section 307(l) is effective as if included in section 603(a) of the Immigration Act of 1990, Pub. L. 101-649.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 603(a)(13) of Pub. L. 101-649 applicable to applications for adjustment of status made

on or after June 1, 1991, see section 601(e)(2) of Pub. L. 101-649, set out as a note under section 1101 of this title.

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of this title.

##### ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

##### REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS

Pub. L. 103-416, title I, § 109, Oct. 25, 1994, 108 Stat. 4310, provided that not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service was to prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under this section and section 1160 of this title.

##### FAMILY UNITY

Pub. L. 101-649, title III, § 301, Nov. 29, 1990, 104 Stat. 5029, as amended by Pub. L. 101-649, title VI, § 603(a)(23), Nov. 29, 1990, 104 Stat. 5084; Pub. L. 103-416, title II, § 206(a), Oct. 25, 1994, 108 Stat. 4311; Pub. L. 104-208, div. C, title III, §§ 308(d)(4)(R), (e)(2)(H), (16), (g)(1), (7)(E)(ii), 383(a), Sept. 30, 1996, 110 Stat. 3009-619 to 3009-622, 3009-624, 3009-652, provided that:

“(a) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of May 5, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A)), who has entered the United States before such date, who resided in the United States on such date, and who is not lawfully admitted for permanent residence, the alien—

“(1) may not be removed or otherwise required to depart from the United States on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 237(a) of the Immigration and Nationality Act [8 U.S.C. 1227(a)] (other than so much of section 237(a)(1)(A) of such Act as relates to a ground of inadmissibility described in paragraph (2) or (3) of section 212(a) of such Act [8 U.S.C. 1182(a)]), and

“(2) shall be granted authorization to engage in employment in the United States and be provided an ‘employment authorized’ endorsement or other appropriate work permit.

“(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

“(1) The term ‘eligible immigrant’ means a qualified immigrant who is the spouse or unmarried child of a legalized alien.

“(2) The term ‘legalized alien’ means an alien lawfully admitted for temporary or permanent residence who was provided—

“(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act [8 U.S.C. 1160],

“(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act [8 U.S.C. 1255a], or

“(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986 [Pub. L. 99-603, set out below].

“(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall apply in the administration of this section.

“(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the ben-

efits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act [8 U.S.C. 1255a(h), 1160(f)].

“(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for the benefits of this section if the Attorney General finds that—

“(1) the alien has been convicted of a felony or 3 or more misdemeanors in the United States,

“(2) the alien is described in section 208(b)(2)(A) of the Immigration and Nationality Act [8 U.S.C. 1158(b)(2)(A)], or

“(3) [the alien] has committed an act of juvenile delinquency which if committed by an adult would be classified as—

“(A) a felony crime of violence that has an element the use or attempted use of physical force against another individual, or

“(B) a felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.

“(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

“(g) EFFECTIVE DATE.—This section shall take effect on October 1, 1991; except that the delay in effectiveness of this section shall not be construed as reflecting a Congressional belief that the existing family fairness program should be modified in any way before such date.”

[Pub. L. 104-208, div. C, title III, §383(b), Sept. 30, 1996, 110 Stat. 3009-652, provided that: “The amendments made by subsection (a) [amending section 301 of Pub. L. 101-649, set out above] shall apply to benefits granted or extended after the date of the enactment of this Act [Sept. 30, 1996].”]

[Pub. L. 103-416, title II, §206(b), Oct. 25, 1994, 108 Stat. 4312, provided that: “The amendment made by subsection (a) [amending section 301 of Pub. L. 101-649, set out above] shall be deemed to have become effective as of October 1, 1991.”]

#### USE OF CAPITAL ASSETS BY IMMIGRATION AND NATURALIZATION SERVICE

Pub. L. 101-162, title II, Nov. 21, 1989, 103 Stat. 1000, provided: “That for fiscal year 1990 and hereafter capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes”.

#### ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

Pub. L. 100-204, title IX, §902, Dec. 22, 1987, 101 Stat. 1400, provided that:

“(a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) ‘extended voluntary departure’ by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

“(1) applies for such adjustment within two years after the date of the enactment of this Act [Dec. 22, 1987];

“(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

“(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

“(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien’s period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

“(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

“(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.”

Similar provisions were contained in Pub. L. 100-202, §101(a) [title IX, §§901, 902], Dec. 22, 1987, 101 Stat. 1329, 1329-43.

#### PROCEDURES FOR PROPERTY ACQUISITION OR LEASING

Pub. L. 99-603, title II, §201(c)(1), Nov. 6, 1986, 100 Stat. 3403, provided that notwithstanding Federal Property and Administrative Services Act of 1949 [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts], the Attorney General was authorized for period of up to two years after effective date of legalization program, to expend from appropriation provided for administration and enforcement of this chapter, such amounts necessary for leasing or acquisition of property in fulfillment of section 201 of Pub. L. 99-603, which enacted this section and amended sections 602, 672, and 673 of Title 42, The Public Health and Welfare.

#### USE OF RETIRED FEDERAL EMPLOYEES

Pub. L. 99-603, title II, §201(c)(2), Nov. 6, 1986, 100 Stat. 3403, as amended by Pub. L. 100-525, §2(h)(2), Oct. 24, 1988, 102 Stat. 2612, provided that: “Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the pay and annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section [enacting this section and amending sections 602, 672, and 673 of Title 42, The Public Health and Welfare]. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.”

#### CUBAN-HAITIAN ADJUSTMENT

Pub. L. 99-603, title II, §202, Nov. 6, 1986, 100 Stat. 3404, as amended by Pub. L. 100-525, §2(i), Oct. 24, 1988, 102 Stat. 2612, provided that the status of an alien who received an immigration designation as a Cuban/Haitian Entrant as of Nov. 6, 1986, or who was a national of Cuba or Haiti, who arrived in the United States before Jan. 1, 1982, could be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if the alien applied for such adjustment within two years after Nov. 6, 1986, and met certain other eligibility requirements.

#### STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

Pub. L. 99-603, title II, §204, Nov. 6, 1986, 100 Stat. 3405, as amended by Pub. L. 100-525, §2(k), Oct. 24, 1988, 102

Stat. 2612; Pub. L. 101-166, title II, Nov. 21, 1989, 103 Stat. 1174; Pub. L. 101-238, §6(a), Dec. 18, 1989, 103 Stat. 2104; Pub. L. 101-517, title II, Nov. 5, 1990, 104 Stat. 2206; Pub. L. 102-170, title II, Nov. 26, 1991, 105 Stat. 1124; Pub. L. 102-394, title II, Oct. 6, 1992, 106 Stat. 1808; Pub. L. 103-333, title II, Sept. 30, 1994, 108 Stat. 2558; Pub. L. 103-416, title II, §219(cc), Oct. 25, 1994, 108 Stat. 4319; Pub. L. 104-208, div. C, title VI, §671(b)(9), (d)(2), Sept. 30, 1996, 110 Stat. 3009-722, 3009-723, related to State legalization impact-assistance grants and appropriation of funds, prior to repeal by Pub. L. 105-220, title I, §199(a)(1), Aug. 7, 1998, 112 Stat. 1058.

#### APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS

Pub. L. 99-603, title III, §303(c), Nov. 6, 1986, 100 Stat. 3431, defined “eligible legalized alien” relative to State legalization assistance, prior to repeal by Pub. L. 100-525, §2(n)(3), Oct. 24, 1988, 102 Stat. 2613.

#### REPORTS ON LEGALIZATION PROGRAM

Pub. L. 99-603, title IV, §404, Nov. 6, 1986, 100 Stat. 3442, provided that the President would transmit to Congress two reports on the legalization program established under this section, one describing legalized aliens and the second on the impact on State and local government, employment, and social welfare and medical needs.

### § 1255b. Adjustment of status of certain non-immigrants to that of persons admitted for permanent residence

Notwithstanding any other provision of law—

#### (a) Application

Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(A)(i), (ii), (G)(i), (ii)], who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

#### (b) Record of admission

If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien’s immediate family and that adjustment of the alien’s status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien’s lawful admission for permanent residence as of the date the order of the Attorney General approving the application for adjustment of status is made.

#### (c) Report to the Congress; resolution not favoring adjustment of status; reduction of quota

A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be

submitted on the first day of each calendar month in which Congress is in session. The Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act [8 U.S.C. 1152] for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

#### (d) Limitations

The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.

(Pub. L. 85-316, §13, Sept. 11, 1957, 71 Stat. 642; Pub. L. 97-116, §17, Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100-525, §9(kk), Oct. 24, 1988, 102 Stat. 2622; Pub. L. 103-416, title II, §207, Oct. 25, 1994, 108 Stat. 4312; Pub. L. 104-208, div. C, title VI, §671(b)(4), Sept. 30, 1996, 110 Stat. 3009-721.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

##### CODIFICATION

Section was not enacted as a part of the Immigration and Nationality Act which comprises this chapter.

##### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-208 made technical amendment to directory language of Pub. L. 103-416, §207(2). See 1994 Amendment note below.

1994—Subsec. (c). Pub. L. 103-416, §207(1), struck out after second sentence “If, during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law.”

Pub. L. 103-416, §207(2), as amended by Pub. L. 104-208, substituted “The” for “If neither the Senate nor the House of Representatives passes such a resolution within the time above specified, the”.

1988—Subsec. (b). Pub. L. 100-525 struck out “of” after “as of the date”.

1981—Subsec. (b). Pub. L. 97-116 inserted provision requiring that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien’s immediate family and that adjustment of the alien’s status to that of an alien lawfully admitted for permanent residence would be in the national interest.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, see section 671(b)(14) of Pub. L. 104-208, set out as a note under section 1101 of this title.