

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 the date of enactment of this section) 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 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 18-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 204(A).

(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) NONIMIGRANTS.- 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 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.--

(A) IN GENERAL.- The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

(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.

(5) CONFIDENTIALITY OF INFORMATION.- Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may-

(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6),

(B) make any publication whereby the information furnished by any particular individual can be identified, or

(C) 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.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(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, United States Code, or imprisoned not more than five years, or both.

(7) APPLICATIONS 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).

(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.

(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.-

(1) NUMERICAL LIMITATIONS DO NOT APPLY.--The numerical limitations of sections 201 and 202 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 (14), (20), (21) (25), and (32) of section 212(a) 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 212(a) 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 212(a) may not be waived by the Attorney General under clause (i):

(I) Paragraphs (9) and (10) (relating to criminals).

(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence 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).

(III) Paragraph (23) (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.

(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

(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 212(a)(15) 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. - 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. -

(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, 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 described in paragraph (1) or (2) (A) of section 501(e) of Public Law 96-422 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 one- 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.

(iii) 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 312 (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 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.

(iii) RELATION TO NATURALIZATION EXAMINATION. In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(1) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title 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 thirty-first 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 longterm involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

(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 . who is an aged, blind, or disabled individual (as defined in section 1514(a)(1) of the Social Security Act).

(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, 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 (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), 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)(B) of the Social Security Act), 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.

(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 National School Lunch Act. (B) The Child Nutrition Act of 1966. (C) The Vocational Education Act of 1963. (D) Chapter 1 of the Education Consolidation and Improvement Act of 1981. (E) The Headstart-Follow Through Act. (F) The Job Training Partnership Act. (G) Title IV of the Higher Education Act of 1965. (H) The Public Health Service Act. (I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act 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), 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.

(2) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982 to that of person admitted for lawful residence.

(b) CONFORMING AMENDMENTS.- (1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

(2) In any case where an alien disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).

(2)(A) Section 472(a) of such Act is amended by adding at the end thereof (after and below paragraph (4)) the following new sentence: In any case where the child is an alien disqualified under section 245A(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

(B) Section 473(a)(1) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence: The last sentence of section 472(a) shall apply, for purposes of subparagraph B), in any case where the child is an alien described in that sentence.

(c) MISCELLANEOUS PROVISIONS.-

(1) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING.- Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this section. This authority shall end two years after the effective date of the legalization program.

(2) USE OF RETIRED FEDERAL EMPLOYEES. 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 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. 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.

(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 (I).

(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 106.

(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.

(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 program of aid to families with dependent children under part A of title IV of the Social Security Act),

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(iii) assistance under the Food Stamp Act of 1977; 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 as to effect on April 1, 1983), or

(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien