
H.R.5548

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001. (Introduced in House)

TITLE XI--ENCOURAGING IMMIGRANT FAMILY REUNIFICATION

SEC. 1101. SHORT TITLE.

This title may be cited as--

- (1) the `Legal Immigration Family Equity Act'; or
- (2) the `LIFE Act'.

SEC. 1102. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA; PROVISIONS AFFECTING SUBSEQUENT ADJUSTMENT OF STATUS FOR SUCH NONIMMIGRANTS.

(a) IN GENERAL- Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended--

- (1) in subparagraph (T), by striking `or' at the end;
- (2) in subparagraph (U), by striking the period at the end and inserting `; or'; and
- (3) by adding at the end the following:

`(V) subject to section 214(o), an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa under section 203(d)) of a petition to accord a status under section 203(a)(2)(A) that was filed with the Attorney General under section 204 on or before the date of the enactment of the Legal Immigration Family Equity Act, if--

- `(i) such petition has been pending for 3 years or more; or
- `(ii) such petition has been approved, 3 years or more have elapsed since such filing date, and--

`(I) an immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 203(a)(2)(A); or

`(II) the alien's application for an immigrant visa, or the alien's application for adjustment of status under section 245, pursuant to the approval of such petition, remains pending.

(b) PROVISIONS AFFECTING NONIMMIGRANT STATUS- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

`(o)(1) In the case of a nonimmigrant described in section 101(a)(15)(V)--

`(A) the Attorney General shall authorize the alien to engage in employment in the United States during the period of authorized admission and shall provide the alien with an 'employment authorized' endorsement or other appropriate document signifying authorization of employment; and

`(B) the period of authorized admission as such a nonimmigrant shall terminate 30 days after the date on which any of the following is denied:

`(i) The petition filed under section 204 to accord the alien a status under section 203(a)(2)(A) (or, in the case of a child granted nonimmigrant status based on eligibility to receive a visa under section 203(d), the petition filed to accord the child's parent a status under section 203(a)(2)(A)).

`(ii) The alien's application for an immigrant visa pursuant to the approval of such petition.

`(iii) The alien's application for adjustment of status under section 245 pursuant to the approval of such petition.

`(2) In determining whether an alien is eligible to be admitted to the United States as a nonimmigrant under section 101(a)(15)(V), the grounds for inadmissibility specified in section 212(a)(9)(B) shall not apply.

`(3) The status of an alien physically present in the United States may be adjusted by the Attorney General, in the discretion of the Attorney General and under such regulations as the Attorney General may prescribe, to that of a nonimmigrant under section 101(a)(15)(V), if the alien--

`(A) applies for such adjustment;

`(B) satisfies the requirements of such section; and

`(C) is eligible to be admitted to the United States, except in determining such admissibility, the grounds for inadmissibility specified in paragraphs (6)(A), (7), and (9)(B) of section 212(a) shall not apply.'

(c) PROVISIONS AFFECTING PERMANENT RESIDENT STATUS- Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

`(m)(1) The status of a nonimmigrant described in section 101(a)(15)(V) who the Attorney General determines was physically present in the United States at any time during the period beginning on July 1, 2000, and ending on October 1, 2000, may be adjusted by the Attorney General, in the discretion of the Attorney General and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence, if--

`(A) the alien makes an application for such adjustment;

`(B) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in paragraphs (6)(A), (7), and (9)(B) of section 212(a) shall not apply; and

`(C) an immigrant visa is immediately available to the alien at the time the alien's application is filed.

`(2) Paragraph (1) shall not apply to an alien who has failed (other than through no fault of the alien or for technical reasons) to maintain continuously a lawful status since obtaining the status of a nonimmigrant described in section 101(a)(15)(V).

`(3) Upon the approval of an application for adjustment made under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference visas authorized to be issued under sections 202 and 203 within the class to which the alien is chargeable for the fiscal year then current.

`(4) The Attorney General may accept an application for adjustment made under paragraph (1) only if the alien remits with such application a sum equalling \$1,000, except that such sum shall not be required from an alien if it would not be required from the alien if the alien were applying under subsection (i).

`(5) The sum specified in paragraph (4) shall be in addition to the fee normally required for the processing of an application under this section.

`(6)(A) The portion of each application fee (not to exceed \$200) that the Attorney General determines is required to process an application under this subsection shall be disposed of by the Attorney General as provided in subsections (m), (n), and (o) of section 286.

`(B) One-half of any remaining portion of such fee shall be deposited by the Attorney General into the Immigration Examination Fee Account established under section 286(m), and one-half of any remaining portion of such fees shall be deposited by the Attorney General into the Breached Bond/Detention Fund established under section 286(r).

`(7) Nothing in this subsection shall be construed as precluding a nonimmigrant described in section 101(a)(15)(V) who is eligible for adjustment of status under subsection (a) from applying for and obtaining adjustment under such subsection. In the case of such an application, the alien shall be required to remit only the fee normally required for the processing of an application under subsection (a).'

(d) CONFORMING AMENDMENTS-

(1) ADMISSION OF NONIMMIGRANTS- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended, in each of subsections (b) and (h), by striking `(H)(i) or (L)' and inserting `(H)(i), (L), or (V)'.

(2) ADJUSTMENT OF STATUS- Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended--

(A) in each of subsections (d) and (f), by striking `under subsection (a),' each place such term appears and inserting `under subsection (a) or (m),'; and

(B) in subsection (e)(1), by striking `subsection (a).' and inserting `subsection (a) or (m).'

(e) EFFECTIVE DATE- The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to an alien who is the beneficiary of a classification petition filed under section 204 of the Immigration and Nationality Act on or before the date of the enactment of this Act.

SEC. 1103. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF CITIZENS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.

(a) IN GENERAL- Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is amended to read as follows:

`(K) subject to subsections (d) and (p) of section 214, an alien who--

`(i) is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission;

`(ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or

`(iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien;'

(b) PROVISIONS AFFECTING NONIMMIGRANT STATUS- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 2 of this Act, is further amended by adding at the end the following:

`(p)(1) A visa shall not be issued under the provisions of section 101(a)(15)(K)(ii) until the consular officer has received a petition filed in the United States by the spouse of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe.

`(2) In the case of an alien seeking admission under section 101(a)(15)(K)(ii) who concluded a marriage with a citizen of the United States outside the United States, the alien shall be considered inadmissible under section 212(a)(7)(B) if the alien is not at the time of application for admission in possession of a valid nonimmigrant visa issued by a consular officer in the foreign state in which the marriage was concluded.

`(3) In the case of a nonimmigrant described in section 101(a)(15)(K)(ii), and any child of such a nonimmigrant who was admitted as accompanying, or following to join, such a nonimmigrant, the period of authorized admission shall terminate 30 days after the date on which any of the

following is denied:

`(A) The petition filed under section 204 to accord the principal alien status under section 201(b)(2)(A)(i).

`(B) The principal alien's application for an immigrant visa pursuant to the approval of such petition.

`(C) The principal alien's application for adjustment of status under section 245 pursuant to the approval of such petition.'

(c) CONFORMING AMENDMENTS-

(1) ADMISSION OF NONIMMIGRANTS- Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended by striking `101(a)(15)(K)' and inserting `101(a)(15)(K)(i)'.

(2) CONDITIONAL PERMANENT RESIDENT STATUS- Section 216 of the Immigration and Nationality Act (8 U.S.C. 1186a) is amended, in each of subsections (b)(1)(B) and (d)(1)(A)(ii), by striking `214(d)' and inserting `subsection (d) or (p) of section 214'.

(3) ADJUSTMENT OF STATUS- Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended--

(A) in subsection (d), by striking `(relating to an alien fiancee or fiance or the minor child of such alien)'; and

(B) in subsection (e)(3), by striking `214(d)' and inserting `subsection (d) or (p) of section 214'.

(d) EFFECTIVE DATE- The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to an alien who is the beneficiary of a classification petition filed under section 204 of the Immigration and Nationality Act before, on, or after the date of the enactment of this Act.

SEC. 1104. ADJUSTMENT OF STATUS OF CERTAIN CLASS ACTION PARTICIPANTS WHO ENTERED BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE.

(a) IN GENERAL- In the case of an eligible alien described in subsection (b), the provisions of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a), as modified by subsection (c), shall apply to the alien.

(b) ELIGIBLE ALIENS DESCRIBED- An alien is an eligible alien described in this subsection if, before October 1, 2000, the alien filed with the Attorney General a written claim for class membership, with or without a filing fee, pursuant to a court order issued in the case of--

(1) Catholic Social Services, Inc. v. Meese, vacated sub nom. Reno v. Catholic Social Services, Inc., 509 U.S. 43 (1993); or

(2) *League of United Latin American Citizens v. INS, vacated sub nom. Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993).

(c) **MODIFICATIONS TO PROVISIONS GOVERNING ADJUSTMENT OF STATUS-** The modifications to section 245A of the Immigration and Nationality Act that apply to an eligible alien described in subsection (b) of this section are the following:

(1) **TEMPORARY RESIDENT STATUS-** Subsection (a) of such section 245A shall not apply.

(2) **ADJUSTMENT TO PERMANENT RESIDENT STATUS-** In lieu of paragraphs (1) and (2) of subsection (b) of such section 245A, the Attorney General shall be required to adjust the status of an eligible alien described in subsection (b) of this section to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

(A) **APPLICATION PERIOD-** The alien must file with the Attorney General an application for such adjustment during the 12-month period beginning on the date on which the Attorney General issues final regulations to implement this section.

(B) **CONTINUOUS UNLAWFUL RESIDENCE-**

(i) **IN GENERAL-** The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act that were most recently in effect before the date of the enactment of this Act shall apply.

(ii) **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.

(iii) **EXCHANGE VISITORS-** If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) of such Act or has fulfilled that requirement or received a waiver thereof.

(iv) **CUBAN AND HAITIAN ENTRANTS-** For purposes of this section, 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.

(C) **CONTINUOUS PHYSICAL PRESENCE-**

(i) IN GENERAL- The alien must establish that the alien was continuously physically present in the United States during the period beginning on November 6, 1986, and ending on May 4, 1988, except that--

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

(II) brief, casual, and innocent absences from the United States shall not be limited to absences with advance parole.

(ii) 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 section or section 245A of the Immigration and Nationality Act.

(D) ADMISSIBLE AS IMMIGRANT- The alien must establish that the alien--

(i) is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the Immigration and Nationality Act;

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

(iii) 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

(iv) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

(E) BASIC CITIZENSHIP SKILLS-

(i) IN GENERAL- The alien must demonstrate that the alien either--

(I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) (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 the discretion of the Attorney General, 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 312(a) of the Immigration and Nationality Act 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 of such Act.

(3) TEMPORARY STAY OF REMOVAL, AUTHORIZED TRAVEL, AND EMPLOYMENT DURING PENDENCY OF APPLICATION- In lieu of subsections (b)(3) and (e)(2) of such section 245A, the Attorney General shall provide that, in the case of an eligible alien described in subsection (b) of this section who presents a prima facie application for adjustment of status to that of an alien lawfully admitted for permanent residence under such section 245A during the application period described in paragraph (2) (A), until a final determination on the application has been made--

(A) the alien may not be deported or removed from the United States;

(B) 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 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; and

(C) 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.

(4) APPLICATIONS- Paragraphs (1) through (4) of subsection (c) of such section 245A shall not apply.

(5) CONFIDENTIALITY OF INFORMATION- Subsection (c)(5) of such section 245A shall apply to information furnished by an eligible alien described in subsection (b) pursuant to any application filed under such section 245A or this section, except that the Attorney General (and other officials and employees of the Department of Justice and any bureau or agency thereof) may use such information for purposes of rescinding, pursuant to section 246(a) of the Immigration and Nationality Act (8 U.S.C.
