(June 27, 1952, ch. 477, title III, ch. 1, § 309, 66 Stat. 238; Pub. L. 97–116, § 18(*l*), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99–653, § 13, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100–525, §§ 8(k), 9(r), Oct. 24, 1988, 102 Stat. 2617, 2621.)

REFERENCES IN TEXT

Section 405 of this Act, referred to in subsec. (b), is section 405 of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–525, § 8(k), amended Pub. L. 99–653. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100–525, § 9(r)(1), substituted ''before December 24, 1952'' for ''prior to the effective date of this chapter'' and ''at any time'' for ''before or after the effective date of this chapter and''.

Subsec. (c). Pub. L. 100–525, § 9(r)(2), substituted ''after December 23, 1952'' for ''on or after the effective date of this chapter''.

1986—Subsec. (a). Pub. L. 99–653, as amended by Pub. L. 100–525, § 8(k), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The provisions of paragraphs (c), (d), (e), and (g) of section 1401 of this title, and of paragraph (2) of section 1408, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this chapter, if the paternity of such child is established while such child is under the age of twenty-one years by legitimation.''

1981—Subsec. (a). Pub. L. 97–116, § 18(*l*)(1), substituted ''(c), (d), (e), and (g) of section 1401'' for ''(3) to (5) and (7) of section 1401(a)''.

Subsec. (b). Pub. L. 97–116, § 18(*l*)(2), substituted ''section 1401(g)'' for ''section 1401(a)(7)''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 8(k) of Pub. L. 100–525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99–653, see section 309(b)(15) of Pub. L. 102–232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 23(e) of Pub. L. 99–653, as added by Pub. L. 100–525, § 8(r), Oct. 24, 1988, 102 Stat. 2619, provided that:

''(1) Except as provided in paragraph (2)(B), the new section 309(a) [8 U.S.C. 1409(a)] (as defined in paragraph (4)(A)) shall apply to persons who have not attained 18 years of age as of the date of the enactment of this Act [Nov. 14, 1986].

''(2) The old section 309(a) shall apply—

''(A) to any individual who has attained 18 years of age as of the date of the enactment of this Act, and

''(B) any individual with respect to whom paternity was established by legitimation before such date.

''(3) An individual who is at least 15 years of age, but under 18 years of age, as of the date of the enactment of this Act, may elect to have the old section 309(a) apply to the individual instead of the new section 309(a).

''(4) In this subsection:

''(A) The term 'new section 309(a)' means section 309(a) of the Immigration and Nationality Act [8 U.S.C. 1409(a)], as amended by section 13 of this Act [section 13 of Pub. L. 99–653] and as in effect after the date of the enactment of this Act.

''(B) The term 'old section 309(a)' means section 309(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, set out as a note under section 1101 of this title.

PART II—NATIONALITY THROUGH NATURALIZATION

§ 1421. Naturalization authority

(a) Authority in Attorney General

The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

(b) Court authority to administer oaths

(1) Jurisdiction

Subject to section 1448(c) of this title—

(A) General jurisdiction

Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

(B) Exclusive authority

An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 1448(a) of this title to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

(2) Information

(A) General information

In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

(ii) the Attorney General—

(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 1448(a) of this title, and

(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

(B) Assignment of individuals in the case of exclusive authority

If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—

(i) the court's exclusive authority to administer the oath of allegiance under section 1448(a) of this title to such a person during the period specified in paragraph (3)(A)(i), and

(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

(3) Scope of exclusive authority

(A) Limited period and advance notice required

The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) Authority of Attorney General

Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) of this section during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) Waiver of exclusive authority

Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 1448(a) of this title to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

(4) Issuance of certificates

The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

(5) Eligible courts

For purposes of this section, the term ''eligible court'' means—

(A) a district court of the United States in any State, or

(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.

(c) Judicial review

A person whose application for naturalization under this subchapter is denied, after a hearing before an immigration officer under section 1447(a) of this title, may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5. Such review shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

(d) Sole procedure

A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this subchapter and not otherwise.

(June 27, 1952, ch. 477, title III, ch. 2, § 310, 66 Stat. 239; Pub. L. 85–508, § 25, July 7, 1958, 72 Stat. 351; Pub. L. 86–3, § 20(c), Mar. 18, 1959, 73 Stat. 13; Pub. L. 87–301, § 17, Sept. 26, 1961, 75 Stat. 656; Pub. L. 100–525, § 9(s), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 401(a), Nov. 29, 1990, 104 Stat. 5038; Pub. L. 102–232, title I, § 102(a), title III, § 305(a), Dec. 12, 1991, 105 Stat. 1734, 1749; Pub. L. 103–416, title II, § 219(u), Oct. 25, 1994, 108 Stat. 4318.)

AMENDMENTS

1994—Subsec. (b)(5)(A). Pub. L. 103–416 substituted ''district court'' for ''District Court''.

1991—Subsec. (b). Pub. L. 102–232, § 102(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''An applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts in this subsection specified to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.''

Pub. L. 102–232, § 305(a), substituted ''district court'' for ''District Court''.

1990—Pub. L. 101–649 amended section generally, substituting provisions authorizing Attorney General to naturalize persons as citizens, for provisions granting certain courts exclusive jurisdiction to naturalize.

1988—Subsec. (e). Pub. L. 100–525 struck out subsec. (e) which read as follows: ''Notwithstanding the provisions of section 405(a), any petition for naturalization filed on or after September 26, 1961, shall be heard and determined in accordance with the requirements of this subchapter.''

1961—Subsec. (e). Pub. L. 87–301 added subsec. (e).

1959—Subsec. (a). Pub. L. 86–3 struck out provisions which conferred jurisdiction on District Court for Territory of Hawaii. See section 91 of Title 28, Judiciary and Judicial Procedure, and notes thereunder.

1958—Subsec. (a). Pub. L. 85–508 struck out provisions which conferred jurisdiction on District Court for Territory of Alaska. See section 81A of Title 28, which established a United States District Court for the State of Alaska.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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

Section 102(c) of title I of Pub. L. 102–232 provided that: ''The amendments made by this title [amending this section and sections 1448, 1450, and 1455 of this title] shall take effect 30 days after the date of the enactment of this Act [Dec. 12, 1991].''

Amendment by section 305(a) of Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT; SAVINGS PROVISION

Section 408 of title IV of Pub. L. 101–649, as amended by Pub. L. 102–232, title III, § 305(n), Dec. 12, 1991, 105 Stat. 1750, provided that:

''(a) EFFECTIVE DATE.—

''(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act [8 U.S.C. 1421(a)], to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

''(2) TREATMENT OF CURRENT COURT PETITIONS.—

''(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

''(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on January 1, 1992, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, and repealing section 1459 of this title], but only if the petition is withdrawn not later than 3 months after the effective date.

''(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act [Nov. 29, 1990].

''(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.

''(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act [8 U.S.C. 1450] (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before October 1, 1991.

''(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, repealing section 1459 of this title, and enacting provisions set out as a note under section 1440 of this title], unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

''(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

''(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.—The amendments made by section 404 [amending section 1426 of this title] (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this Act [Nov. 29, 1990] and shall apply to exemptions from training or service obtained before, on, or after such date.

''(f) FILIPINO WAR VETERANS.—Section 405 [enacting provisions formerly set out as a note under section 1440 of this title] (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.''

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.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

§ 1422. Eligibility for naturalization

The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.

(June 27, 1952, ch. 477, title III, ch. 2, § 311, 66 Stat. 239; Pub. L. 100–525, § 9(t), Oct. 24, 1988, 102 Stat. 2621.)

AMENDMENTS

1988—Pub. L. 100–525 struck out at end ''Notwithstanding section 405(b) of this Act, this section shall apply to any person whose petition for naturalization shall hereafter be filed, or shall have been pending on the effective date of this chapter.''

§ 1423. Requirements as to understanding the English language, history, principles and form of government of the United States

(a) No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*, That the requirements of this paragraph relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

(b)(1) The requirements of subsection (a) of this section shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

(2) The requirement of subsection (a)(1) of this section shall not apply to any person who, on

the date of the filing of the person's application for naturalization as provided in section 1445 of this title, either—

(A) is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence, or

(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsequent to a lawful admission for permanent residence.

(3) The Attorney General, pursuant to regulations, shall provide for special consideration, as determined by the Attorney General, concerning the requirement of subsection (a)(2) of this section with respect to any person who, on the date of the filing of the person's application for naturalization as provided in section 1445 of this title, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.

(June 27, 1952, ch. 477, title III, ch. 2, § 312, 66 Stat. 239; Pub. L. 95–579, § 3, Nov. 2, 1978, 92 Stat. 2474; Pub. L. 101–649, title IV, § 403, Nov. 29, 1990, 104 Stat. 5039; Pub. L. 102–232, title III, § 305(m)(2), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 108(a), Oct. 25, 1994, 108 Stat. 4309.)

AMENDMENTS

1994—Pub. L. 103–416 designated existing provisions as subsec. (a), struck out ''this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any person who, on the date of the filing of his application for naturalization as provided in section 1445 of this title, either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence: *Provided further*, That'', after ''*Provided*, That'', substituted ''this paragraph'' for ''this section'' after ''requirements of'', and added subsec. (b).

1991—Pub. L. 102–232 substituted ''application'' for ''petition'' in introductory provisions and par. (1).

1990—Par. (1). Pub. L. 101–649 substituted ''either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence'' for ''is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence''.

1978—Par. (1). Pub. L. 95–579 substituted ''person who, on the date of the filing of his petition for naturalization as provided in section 1445 of this title, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence'' for ''person who, on the effective date of this chapter, is over fifty years of age and has been living in the United States for periods totaling at least twenty years''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 108(c) of Pub. L. 103–416 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 25, 1994] and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

REGULATIONS

Section 108(d) of Pub. L. 103–416 provided that: ''Not later than 120 days after the date of enactment of this Act [Oct. 25, 1994], the Attorney General shall promulgate regulations to carry out section 312(b)(3) of the Immigration and Nationality Act [8 U.S.C. 1423(b)(3)] (as amended by subsection (a)).''

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.

HMONG VETERANS' NATURALIZATION

Pub. L. 106–207, May 26, 2000, 114 Stat. 316, as amended by Pub. L. 106–415, Nov. 1, 2000, 114 Stat. 1810; Pub. L. 107–77, title I, § 112, Nov. 28, 2001, 115 Stat. 765, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Hmong Veterans' Naturalization Act of 2000'.

''SEC. 2. EXEMPTION FROM ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.

''The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)) shall not apply to the naturalization of any person—

''(1) who—

''(A) was admitted into the United States as a refugee from Laos pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); and

''(B) served with a special guerrilla unit, or irregular forces, operating from a base in Laos in support of the United States military at any time during the period beginning February 28, 1961, and ending September 18, 1978;

''(2) who—

''(A) satisfies the requirement of paragraph (1)(A); and

''(B) was the spouse of a person described in paragraph (1) on the day on which such described person applied for admission into the United States as a refugee; or

''(3) who—

''(A) satisfies the requirement of paragraph (1)(A); and

''(B) is the surviving spouse of a person described in paragraph (1)(B) which described person was killed or died in Laos, Thailand, or Vietnam.

''SEC. 3. SPECIAL CONSIDERATION CONCERNING CIVICS REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.

''The Attorney General shall provide for special consideration, as determined by the Attorney General, concerning the requirement of paragraph (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(2)) with respect to the naturalization of any person described in paragraph (1), (2), or (3) of section 2 of this Act.

''SEC. 4. DOCUMENTATION OF QUALIFYING SERVICE.

''A person seeking an exemption under section 2 or special consideration under section 3 shall submit to the Attorney General documentation of their, or their spouse's, service with a special guerrilla unit, or irregular forces, described in section 2(1)(B), in the form of—

''(1) original documents;

''(2) an affidavit of the serving person's superior officer;

''(3) two affidavits from other individuals who also were serving with such a special guerrilla unit, or irregular forces, and who personally knew of the person's service; or

''(4) other appropriate proof.

''SEC. 5. DETERMINATION OF ELIGIBILITY FOR EXEMPTION AND SPECIAL CONSIDERATION.

''(a) In determining a person's eligibility for an exemption under section 2 or special consideration under section 3, the Attorney General—

''(1) shall review the refugee processing documentation for the person, or, in an appropriate case, for the person and the person's spouse, to verify that the requirements of section 2 relating to refugee applications and admissions have been satisfied;

''(2) shall consider the documentation submitted by the person under section 4;

''(3) may request an advisory opinion from the Secretary of Defense regarding the person's, or their spouse's, service in a special guerrilla unit, or irregular forces, described in section 2(1)(B); and

''(4) may consider any documentation provided by organizations maintaining records with respect to Hmong veterans or their families.

''(b) The Secretary of Defense shall provide any opinion requested under paragraph (3) to the extent practicable, and the Attorney General shall take into account any opinion that the Secretary of Defense is able to provide.

''SEC. 6. DEADLINE FOR APPLICATION AND PAYMENT OF FEES.

''This Act shall apply to a person only if the person's application for naturalization is filed, as provided in section 334 of the Immigration and Nationality Act (8 U.S.C. 1445), with appropriate fees not later than 36 months after the date of the enactment of this Act [May 26, 2000]. In the case of a person described in section 2(3), the application referred to in the preceding sentence, and appropriate fees, shall be filed not later than 36 months after the date of the enactment of this sentence [Nov. 1, 2000].

''SEC. 7. LIMITATION ON NUMBER OF BENEFICIARIES.

''Notwithstanding any other provision of this Act, the total number of aliens who may be granted an exemption under section 2 or special consideration under section 3, or both, may not exceed 45,000.''

§ 1424. Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government

(a) Notwithstanding the provisions of section 405(b) of this Act, no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organization or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5) of this subsection.

(b) The provisions of this section or of any other section of this chapter shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this chapter do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the application for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the application is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) of this section solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) of this section if such person establishes that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes.

(e) A person may be naturalized under this subchapter without regard to the prohibitions in subsections (a)(2) and (c) of this section if the person—

(1) is otherwise eligible for naturalization;

(2) is within the class described in subsection (a)(2) of this section solely because of past membership in, or past affiliation with, a party or organization described in that subsection;

(3) does not fall within any other of the classes described in that subsection; and

(4) is determined by the Director of Central Intelligence, in consultation with the Secretary of Defense when Department of Defense activities are relevant to the determination, and with the concurrence of the Attorney General and the Secretary of Homeland Security, to have made a contribution to the national security or to the national intelligence mission of the United States.

(June 27, 1952, ch. 477, title III, ch. 2, § 313, 66 Stat. 240; Pub. L. 100–525, § 9(u), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(c)(1), Nov. 29, 1990, 104 Stat. 5041; Pub. L. 102–232, title III, § 309(b)(13), Dec. 12, 1991, 105 Stat. 1759; Pub. L. 103–416, title II, § 219(v), Oct. 25, 1994, 108 Stat. 4318; Pub. L. 106–120, title III, § 306, Dec. 3, 1999, 113 Stat. 1612; Pub. L. 108–177, title III, § 373, Dec. 13, 2003, 117 Stat. 2628.)

REFERENCES IN TEXT

Section 405(b) of this Act, referred to in subsec. (a), is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

2003—Subsec. (e)(4). Pub. L. 108–177 inserted ''when Department of Defense activities are relevant to the determination'' after ''Secretary of Defense'' and ''and the Secretary of Homeland Security'' after ''Attorney General''.

1999—Subsec. (e). Pub. L. 106–120 added subsec. (e).

1994—Subsec. (a)(2). Pub. L. 103–416 substituted ''or'' for ''and'' before ''(F)''.

1991—Subsec. (a)(2). Pub. L. 102–232 inserted ''and'' before ''(F)'' and struck out ''; (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 786 of title 50; or (H) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-front organization during the time it is registered or required to be registered under section 786 of title 50'' after ''may hereafter adopt''.

1990—Subsec. (c). Pub. L. 101–649 substituted ''application'' for ''petition'' wherever appearing.

1988—Subsec. (a)(2)(D). Pub. L. 100–525 substituted ''party of'' for ''party or''.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 219(v) of Pub. L. 103–416 provided that the amendment made by that section is effective Dec. 12, 1991.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, 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.

§ 1425. Ineligibility to naturalization of deserters from the Armed Forces

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.

(June 27, 1952, ch. 477, title III, ch. 2, § 314, 66 Stat. 241.)

§ 1426. Citizenship denied alien relieved of service in Armed Forces because of alienage

(a) Permanent ineligibility

Notwithstanding the provisions of section 405(b)[1] but subject to subsection (c) of this section, any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) Conclusiveness of records

The records of the Selective Service System or of the Department of Defense shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

(c) Service in armed forces of foreign country

An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.

(June 27, 1952, ch. 477, title III, ch. 2, § 315, 66 Stat. 242; Pub. L. 100–525, § 9(v), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 404, Nov. 29, 1990, 104 Stat. 5039.)

REFERENCES IN TEXT

Section 405(b), referred to in subsec. (a), is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–649, § 404(1), inserted ''but subject to subsection (c) of this section'' after ''section 405(b)''.

Subsec. (c). Pub. L. 101–649, § 404(2), added subsec. (c).

1988—Subsec. (b). Pub. L. 100–525 substituted ''Department of Defense'' for ''National Military Establishment''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to exemptions from training or service obtained before, on, or after Nov. 29, 1990, see section 408(e) of Pub. L. 101–649, set out as a note under section 1421 of this title.

§ 1427. Requirements of naturalization

(a) Residence

No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time, and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months, (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absences

Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the application for naturalization, or during the period between the date of filing the application and the date of any hearing under section 1447(a) of this title, shall break the continuity of such residence, unless the applicant shall establish to the satisfaction of the Attorney General that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the application for naturalization) shall break the continuity of such residence, except that in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries in such firm or corporation, or to be employed by a public international organization of which the United States is a member by

[1] See References in Text note below.

treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the Attorney General that his absence from the United States for such period has been for such purpose.

The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

(c) Physical presence

The granting of the benefits of subsection (b) of this section shall not relieve the applicant from the requirement of physical presence within the United States for the period specified in subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of this section of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing an application for naturalization.

(d) Moral character

No finding by the Attorney General that the applicant is not deportable shall be accepted as conclusive evidence of good moral character.

(e) Determination

In determining whether the applicant has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the Attorney General shall not be limited to the applicant's conduct during the five years preceding the filing of the application, but may take into consideration as a basis for such determination the applicant's conduct and acts at any time prior to that period.

(f) Persons making extraordinary contributions to national security

(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that an applicant otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the applicant may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 1424 of this title, and no residence within a particular State or district of the Service in the United States shall be required: *Provided*, That the applicant has continuously resided in the United States for at least one year prior to naturalization: *Provided further*, That the provisions of this subsection shall not apply to any alien described in clauses (i) through (v) of section 1158(b)(2)(A) of this title.

(2) An applicant for naturalization under this subsection may be administered the oath of allegiance under section 1448(a) of this title by any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed five. The Director of Central Intelligence shall inform the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives within a reasonable time prior to the filing of each application under the provisions of this subsection.

(June 27, 1952, ch. 477, title III, ch. 2, § 316, 66 Stat. 242; Pub. L. 97–116, § 14, Dec. 29, 1981, 95 Stat. 1619; Pub. L. 99–169, title VI, § 601, Dec. 4, 1985, 99 Stat. 1007; Pub. L. 101–649, title IV, §§ 402, 407(c)(2), (d)(1), (e)(1), Nov. 29, 1990, 104 Stat. 5038, 5041, 5046; Pub. L. 104–208, div. C, title III, § 308(g)(7)(F), Sept. 30, 1996, 110 Stat. 3009–624; Pub. L. 109–149, title V, § 518, Dec. 30, 2005, 119 Stat. 2882.)

AMENDMENTS

2005—Subsec. (g). Pub. L. 109–149, § 518, temporarily added subsec. (g) reading as follows:

''(1) The continuous residency requirement under subsection (a) of this section may be reduced to 3 years for an applicant for naturalization if—

''(A) the applicant is the beneficiary of an approved petition for classification under section 1154(a)(1)(E) of this title;

''(B) the applicant has been approved for adjustment of status under section 1255(a) of this title; and

''(C) such reduction is necessary for the applicant to represent the United States at an international event.

''(2) The Secretary of Homeland Security shall adjudicate an application for naturalization under this section not later than 30 days after the submission of such application if the applicant—

''(A) requests such expedited adjudication in order to represent the United States at an international event; and

''(B) demonstrates that such expedited adjudication is related to such representation.

''(3) An applicant is ineligible for expedited adjudication under paragraph (2) if the Secretary of Homeland Security determines that such expedited adjudication poses a risk to national security. Such a determination by the Secretary shall not be subject to review.

''(4)(A) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge and collect a $1,000 premium processing fee from each applicant described in this subsection to offset the additional costs incurred to expedite the processing of applications under this subsection.

''(B) The fee collected under subparagraph (A) shall be deposited as offsetting collections in the Immigration Examinations Fee Account.'' See Termination Date of 2005 Amendment note below.

1996—Subsec. (f)(1). Pub. L. 104–208 substituted ''clauses (i) through (v) of section 1158(b)(2)(A) of this title'' for ''subparagraphs (A) through (D) of section 1253(h)(2) of this title''.

1990—Subsec. (a). Pub. L. 101–649, § 407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Pub. L. 101–649, § 402, substituted ''and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months'' for

''and who has resided within the State in which the petitioner filed the petition for at least six months'' in cl. (1).

Subsec. (b). Pub. L. 101–649, § 407(d)(1)(A), (B), substituted ''the Attorney General'' for ''the court'' in first par. and subpar. (2) of second par., and ''date of any hearing under section 1447(a) of this title'' for ''date of final hearing'' in first par.

Pub. L. 101–649, § 407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101–649, § 407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (d). Pub. L. 101–649, § 407(c)(2), substituted reference to applicant for reference to petitioner.

Subsec. (e). Pub. L. 101–649, § 407(d)(1)(C), substituted ''the Attorney General'' for ''the court''.

Pub. L. 101–649, § 407(c)(2), substituted references to applicant, applicant's, and application for references to petitioner, petitioner's, and petition wherever appearing.

Subsec. (f). Pub. L. 101–649, § 407(e)(1), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 792 or 793 of title 50.''

Subsec. (f)(1). Pub. L. 101–649, § 407(d)(1)(D), substituted ''within a particular State or district of the Service in the United States'' for ''within the jurisdiction of the court''.

Pub. L. 101–649, § 407(c)(2), substituted references to applicant for references to petitioner wherever appearing.

Subsec. (f)(2). Pub. L. 101–649, § 407(d)(1)(E), amended first sentence generally. Prior to amendment, first sentence read as follows: ''A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner.''

Subsec. (f)(3). Pub. L. 101–649, § 407(c)(2), substituted reference to application for reference to petition.

1985—Subsec. (g). Pub. L. 99–169 added subsec. (g).

1981—Subsec. (b). Pub. L. 97–116 inserted provision that the spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

TERMINATION DATE OF 2005 AMENDMENT

Pub. L. 109–149, title V, § 518(b), Dec. 30, 2005, 119 Stat. 2882, provided that: ''The amendment made by subsection (a) [amending this section] is repealed on January 1, 2006.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

EXPEDITED NATURALIZATION

Pub. L. 104–293, title III, § 305, Oct. 11, 1996, 110 Stat. 3465, as amended by Pub. L. 106–120, title III, § 307, Dec. 3, 1999, 113 Stat. 1612, provided that:

''(a) IN GENERAL.—With the approval of the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization, an applicant described in subsection (b) and otherwise eligible for naturalization may be naturalized without regard to the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act [8 U.S.C. 1427(a)], or to the prohibitions of section 313 of such Act [8 U.S.C. 1424], and no residence within a particular State or district of the Immigration and Naturalization Service in the United States shall be required.

''(b) ELIGIBLE APPLICANT.—An applicant eligible for naturalization under this section is the spouse or child of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information regarding the alien's participation in the conduct of United States intelligence activities and who—

''(1) has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least one year prior to naturalization; and

''(2) is not described in clauses (i) through (iv) of section 241(b)(3)(B) of such Act [8 U.S.C. 1231(b)(3)(B)].

''(c) ADMINISTRATION OF OATH.—An applicant for naturalization under this section may be administered the oath of allegiance under section 337(a) of the Immigration and Nationality Act [8 U.S.C. 1448(a)] by the Attorney General or any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

''(d) DEFINITIONS.—For purposes of this section—

''(1) the term 'child' means a child as defined in subparagraphs (A) through (E) of section 101(b)(1) of the Immigration and Nationality Act [8 U.S.C. 1101(b)(1)], without regard to age or marital status; and

''(2) the term 'spouse' means the wife or husband of a deceased alien referred to in subsection (b) who was married to such alien during the time the alien participated in the conduct of United States intelligence activities.''

§ 1428. Temporary absence of persons performing religious duties

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for permanent residence, (2) has at any time thereafter and before filing an application for naturalization been physically present and residing within the United States

for an uninterrupted period of at least one year, and (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 1427(a) of this title, notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

(June 27, 1952, ch. 477, title III, ch. 2, § 317, 66 Stat. 243; Pub. L. 101–649, title IV, § 407(c)(3), (d)(2), Nov. 29, 1990, 104 Stat. 5041.)

AMENDMENTS

1990—Pub. L. 101–649, § 407(d)(2), struck out ''and the naturalization court'' after ''Attorney General''.

Pub. L. 101–649, § 407(c)(3), substituted ''application'' for ''petition''.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, 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.

§ 1429. Prerequisite to naturalization; burden of proof

Except as otherwise provided in this subchapter, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this chapter. The burden of proof shall be upon such person to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405(b),[1] and except as provided in sections 1439 and 1440 of this title no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act; and no application for naturalization shall be considered by the Attorney General if there is pending against the applicant a removal proceeding pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act: *Provided*, That the findings of the Attorney General in terminating removal proceedings or in canceling the removal of an alien pursuant to the provisions of this chapter, shall not be deemed binding in any way upon the Attorney General with respect to the question of whether such person has established his eligibility for naturalization as required by this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, § 318, 66 Stat. 244; Pub. L. 90–633, § 4, Oct. 24, 1968, 82 Stat. 1344; Pub. L. 101–649, title IV, § 407(c)(4), (d)(3), Nov. 29, 1990, 104 Stat. 5041; Pub. L. 104–208, div. C, title III, § 308(e)(1)(O), (15), Sept. 30, 1996, 110 Stat. 3009–620, 3009–621.)

REFERENCES IN TEXT

Section 405(b), referred to in text, is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1996—Pub. L. 104–208 substituted ''removal'' for ''deportation'' wherever appearing and ''canceling'' for ''suspending''.

1990—Pub. L. 101–649, § 407(d)(3), in last sentence substituted ''considered by the Attorney General'' for ''finally heard by a naturalization court'' and ''upon the Attorney General'' for ''upon the naturalization court''.

Pub. L. 101–649, § 407(c)(4), substituted ''application'' for ''petition'' and ''applicant'' for ''petitioner''.

1968—Pub. L. 90–633 substituted reference to exception provided in sections 1439 and 1440 of this title for reference to exception provided in sections 1438 and 1439 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

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.

§ 1430. Married persons and employees of certain nonprofit organizations

(a) Any person whose spouse is a citizen of the United States, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty, may be naturalized upon compliance with all the requirements of this subchapter except the provisions of paragraph (1) of section 1427(a) of this title if such person immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least three years, and during the three years immediately preceding the date of filing his application has been living in marital union with the citizen spouse (except in the case of a person who has been battered or subjected to extreme cruelty by a United States

[1] See References in Text note below.

citizen spouse or parent), who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months.

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within a State or a district of the Service in the United States or proof thereof shall be required.

(c) Any person who (1) is employed by a bona fide United States incorporated nonprofit organization which is principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes United States interests abroad and which is recognized as such by the Attorney General, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his application for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this subchapter except that no prior residence or specified period of physical presence within the United States or any State or district of the Service in the United States, or proof thereof, shall be required.

(d) Any person who is the surviving spouse, child, or parent of a United States citizen, whose citizen spouse, parent, or child dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who, in the case of a surviving spouse, was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this subchapter except that no prior residence or specified physical presence within the United States, or within a State or a district of the Service in the United States shall be required. For purposes of this subsection, the terms ''United States citizen'' and ''citizen spouse'' include a person granted posthumous citizenship under section 1440–1 of this title.

(June 27, 1952, ch. 477, title III, ch. 2, § 319, 66 Stat. 244; Pub. L. 85–697, § 2, Aug. 20, 1958, 72 Stat. 687; Pub. L. 90–215, § 1(a), Dec. 18, 1967, 81 Stat. 661; Pub. L. 90–369, June 29, 1968, 82 Stat. 279; Pub. L. 101–649, title IV, § 407(b)(1), (c)(5), (d)(4), Nov. 29, 1990, 104 Stat. 5040, 5041; Pub. L. 106–386, div. B, title V, § 1503(e), Oct. 28, 2000, 114 Stat. 1522; Pub. L. 108–136, div. A, title XVII, § 1703(f)(1), (h), Nov. 24, 2003, 117 Stat. 1695, 1696.)

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–136, § 1703(h), inserted '', child, or parent'' after ''surviving spouse'' and '', parent, or child'' after ''whose citizen spouse'', and substituted ''who, in the case of a surviving spouse, was living'' for ''who was living''.

Pub. L. 108–136, § 1703(f)(1), inserted at end ''For purposes of this subsection, the terms 'United States citizen' and 'citizen spouse' include a person granted posthumous citizenship under section 1440–1 of this title.''

2000—Subsec. (a). Pub. L. 106–386 inserted '', or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty,'' after ''citizen of the United States'' and ''(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)'' after ''has been living in marital union with the citizen spouse''.

1990—Subsec. (a). Pub. L. 101–649, § 407(c)(5), substituted ''application'' for ''petition'' wherever appearing.

Pub. L. 101–649, § 407(b)(1)(A), substituted ''has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months'' for ''has resided within the State in which he filed his petition for at least six months.''

Subsec. (b). Pub. L. 101–649, § 407(d)(4)(A), substituted ''before the Attorney General'' for ''before the naturalization court'' in cl. (3).

Pub. L. 101–649, § 407(b)(1)(B), substituted ''within a State or a district of the Service in the United States'' for ''within the jurisdiction of the naturalization court''.

Subsec. (c). Pub. L. 101–649, § 407(d)(4)(B), substituted ''Attorney General'' for ''naturalization court'' in cl. (5).

Pub. L. 101–649, § 407(c)(5), substituted ''application'' for ''petition''.

Pub. L. 101–649, § 407(b)(1)(C), substituted ''district of the Service in the United States'' for ''within the jurisdiction of the court''.

Subsec. (d). Pub. L. 101–649, § 407(b)(1)(B), substituted ''within a State or a district of the Service in the United States'' for ''within the jurisdiction of the naturalization court''.

1968—Subsec. (d). Pub. L. 90–369 added subsec. (d).

1967—Subsec. (c). Pub. L. 90–215 added subsec. (c).

1958—Subsec. (b). Pub. L. 85–697 inserted provision relating to persons performing religious duties.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title XVII, § 1703(f)(2), Nov. 24, 2003, 117 Stat. 1695, provided that: ''The amendment

made by paragraph (1) [amending this section] shall apply with respect to persons granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) due to death on or after September 11, 2001.''

Amendment by Pub. L. 108–136 effective as if enacted Sept. 11, 2001, see section 1705(a) of Pub. L. 108–136, set out as a note under section 1439 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.

REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES

Pub. L. 101–193, title V, § 506, Nov. 30, 1989, 103 Stat. 1709, as amended by Pub. L. 104–208, div. C, title VI, § 671(g)(1), Sept. 30, 1996, 110 Stat. 3009–724; Pub. L. 105–85, div. A, title IX, § 923, Nov. 18, 1997, 111 Stat. 1863, provided that:

''(a) For purposes of section 319(c) of the Immigration and Nationality Act (8 U.S.C. 1430(c)), the George C. Marshall European Center for Security Studies, located in Garmisch, Federal Republic of Germany, shall be considered to be an organization described in clause (1) of such section.

''(b) Subsection (a) shall apply with respect to periods of employment before, on, or after the date of the enactment of this Act [Nov. 30, 1989].

''(c) No more than two persons per year may be naturalized based on the provisions of subsection (a).

''(d) Each instance of naturalization based on the provisions of subsection (a) shall be reported to the Committees on the Judiciary of the Senate and House of Representatives and to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to such naturalization.''

§ 1431. Children born outside the United States and residing permanently in the United States; conditions under which citizenship automatically acquired

(a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.

(2) The child is under the age of eighteen years.

(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(b) Subsection (a) of this section shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(June 27, 1952, ch. 477, title III, ch. 2, § 320, 66 Stat. 245; Pub. L. 95–417, § 4, Oct. 5, 1978, 92 Stat. 917; Pub. L. 97–116, § 18(m), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99–653, § 14, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100–525, §§ 8(*l*), 9(w), Oct. 24, 1988, 102 Stat. 2618, 2621; Pub. L. 106–395, title I, § 101(a), Oct. 30, 2000, 114 Stat. 1631.)

AMENDMENTS

2000—Pub. L. 106–395 amended section catchline and text generally. Prior to amendment, text read as follows:

''(a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

''(1) such naturalization takes place while such child is unmarried and under the age of eighteen years; and

''(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

''(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.''

1988—Subsec. (a)(1). Pub. L. 100–525, § 8(*l*), repealed Pub. L. 99–653, § 14. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100–525, § 9(w), substituted ''Subsection (a)'' for ''Subsection (a)(1)''.

1986—Subsec. (a)(1). Pub. L. 99–653, § 14, which inserted ''unmarried and'' after ''such child is'', was repealed by Pub. L. 100–525, § 8(*l*).

1981—Subsec. (b). Pub. L. 97–116 substituted ''an adopted child only if the child'' for ''a child adopted while under the age of sixteen years who''.

1978—Subsec. (a). Pub. L. 95–417 substituted in pars. (1) and (2) ''eighteen years'' for ''sixteen years''.

Subsec. (b). Pub. L. 95–417 substituted provisions making subsec. (a)(1) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–395, title I, § 104, Oct. 30, 2000, 114 Stat. 1633, provided that: ''The amendments made by this title [amending this section and section 1433 of this title and repealing section 1432 of this title] shall take effect 120 days after the date of the enactment of this Act [Oct. 30, 2000] and shall apply to individuals who satisfy the requirements of section 320 or 322 of the Immigration and Nationality Act [8 U.S.C. 1431, 1433], as in effect on such effective date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 8(*l*) of Pub. L. 100–525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99–653, see section 309(b)(15) of Pub. L. 102–232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, set out as a note under section 1101 of this title.

§ 1432. Repealed. Pub. L. 106–395, title I, § 103(a), Oct. 30, 2000, 114 Stat. 1632

Section, acts June 27, 1952, ch. 477, title III, ch. 2, § 321, 66 Stat. 245; Pub. L. 95–417, § 5, Oct. 5, 1978, 92 Stat. 918; Pub. L. 97–116, § 18(m), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99–653, § 15, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, § 8(*l*), Oct. 24, 1988, 102 Stat. 2618, related to conditions for automatic citizenship of children born outside the United States of alien parents.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Oct. 30, 2000, see section 104 of Pub. L. 106–395, set out as an Effective Date of 2000 Amendment note under section 1431 of this title.

§ 1433. Children born and residing outside the United States; conditions for acquiring certificate of citizenship

(a) Application by citizen parents; requirements

A parent who is a citizen of the United States (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 1431 of this title. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

(1) At least one parent (or, at the time of his or her death, was) is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent—

(A) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

(B) has (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(3) The child is under the age of eighteen years.

(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Attainment of citizenship status; receipt of certificate

Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section 1448(a) of this title, upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Adopted children

Subsections (a) and (b) of this section shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(June 27, 1952, ch. 477, title III, ch. 2, § 322, 66 Stat. 246; Pub. L. 95–417, § 6, Oct. 5, 1978, 92 Stat. 918; Pub. L. 97–116, § 18(m), (n), Dec. 29, 1981, 95 Stat. 1620, 1621; Pub. L. 99–653, § 16, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, § 8(*l*), Oct. 24, 1988, 102 Stat. 2618; Pub. L. 101–649, title IV, § 407(b)(2), (c)(6), (d)(5), Nov. 29, 1990, 104 Stat. 5040–5042; Pub. L. 102–232, title III, § 305(m)(3), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 102(a), Oct. 25, 1994, 108 Stat. 4306; Pub. L. 106–139, § 1(b)(2), Dec. 7, 1999, 113 Stat. 1697; Pub. L. 106–395, title I, § 102(a), Oct. 30, 2000, 114 Stat. 1632; Pub. L. 107–273, div. C, title I, § 11030B, Nov. 2, 2002, 116 Stat. 1837.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273, § 11030B(1), in introductory provisions, inserted "(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)" after "citizen of the United States" and substituted "such applicant" for "such parent".

Subsec. (a)(1). Pub. L. 107–273, § 11030B(2), inserted "(or, at the time of his or her death, was)" after "parent".

Subsec. (a)(2)(A). Pub. L. 107–273, § 11030B(3)(A), inserted "(or, at the time of his or her death, had)" after "(A) has".

Subsec. (a)(2)(B). Pub. L. 107–273, § 11030B(3)(B), inserted "(or, at the time of his or her death, had)" after "(B) has".

Subsec. (a)(4). Pub. L. 107–273, § 11030B(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The child is residing outside of the United States in the legal and physical custody of the citizen parent, is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status."

Subsec. (a)(5). Pub. L. 107–273, § 11030B(5), added par. (5).

2000—Pub. L. 106–395 amended section catchline and text generally, revising and restating provisions relating to acquisition of certificate of citizenship for certain children born outside the United States.

1999—Subsec. (a)(4). Pub. L. 106–139 substituted "16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 1101(b)(1) of this title)" for "16 years" and "either of such subparagraphs" for "subparagraph (E) or (F) of section 1101(b)(1) of this title".

1994—Pub. L. 103–416 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a) naturalization on application of citizen parents; in subsec. (b) adopted children; and subsec. (c) specified period of residence for adopted children.

1991—Pub. L. 102–232 amended section catchline.

1990—Subsec. (a). Pub. L. 101–649, § 407(c)(6), substituted "applying" for "petitioning" and "application" for "petition".

Subsec. (c). Pub. L. 101–649, § 407(d)(5), substituted "Attorney General" for first reference to "naturalization court" in cl. (2)(C).

Pub. L. 101–649, § 407(c)(6), substituted "applies" for "petitions".

Pub. L. 101–649, § 407(b)(2), substituted "within a State or a district of the Service in the United States" for "within the jurisdiction of the naturalization court".

1988—Subsec. (a). Pub. L. 100–525 repealed Pub. L. 99–653, § 16. See 1986 Amendment note below.

1986—Subsec. (a). Pub. L. 99–653, § 16, which inserted "unmarried and" after "be naturalized if", was repealed by Pub. L. 100–525.

1981—Subsec. (b). Pub. L. 97–116, § 18(m), substituted "an adopted child only if the child" for "a child adopted while under the age of sixteen years who".

Subsec. (c). Pub. L. 97–116, § 18(n), added subsec. (c).

1978—Subsec. (b). Pub. L. 95–417 substituted provisions making subsec. (a) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–395 effective 120 days after Oct. 30, 2000, and applicable to individuals who satisfy the requirements of this section or section 1431 of this title as in effect on such effective date, see section 104

of Pub. L. 106–395, set out as a note under section 1431 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 102(d) of Pub. L. 103–416 provided that: ''The amendments made by this section [amending this section and section 1452 of this title] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Oct. 25, 1994].''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99–653, see section 309(b)(15) of Pub. L. 102–232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

APPLICATION OF 1994 AMENDMENT

Section 102(e) of Pub. L. 103–416, as added by Pub. L. 104–208, div. C, title VI, § 671(b)(2), Sept. 30, 1996, 110 Stat. 3009–721, which provided that in applying amendment made by subsection (a), amending this section, to children born before Nov. 14, 1986, any reference in matter inserted by such amendment to ''five years, at least two of which'' was deemed a reference to ''10 years, at least 5 of which'', was repealed by Pub. L. 105–38, § 1, Aug. 8, 1997, 111 Stat. 1115, effective as if included in the enactment of Pub. L. 103–416.

§ 1434. Repealed. Pub. L. 95–417, § 7, Oct. 5, 1978, 92 Stat. 918

Section, acts June 27, 1952, ch. 477, title III, ch. 2, § 323, 66 Stat. 246; Sept. 11, 1957, Pub. L. 85–316, § 11, 71 Stat. 642; Aug. 20, 1958, Pub. L. 85–697, § 1, 72 Stat. 687, related to citizenship of children adopted by citizens.

§ 1435. Former citizens regaining citizenship

(a) Requirements

Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this subchapter, except—

(1) no period of residence or specified period of physical presence within the United States or within the State or district of the Service in the United States where the application is filed shall be required; and

(2) the application need not set forth that it is the intention of the applicant to reside permanently within the United States.

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) Additional requirements

No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the Attorney General that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing an application for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her application for naturalization.

(c) Oath of allegiance

(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 1448 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the Attorney General or the judge or clerk of a court described in section 1421(b) of this title.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, lega-

tion, consulate, court, or the Attorney General, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court, or the Attorney General, shall be delivered to such woman at a cost not exceeding $5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States.

(d) Persons losing citizenship for failure to meet physical presence retention requirement

(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 1401(b) of this title (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 1448 of this title be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

(2) The provisions of paragraphs (2) and (3) of subsection (c) of this section shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1) of this section.

(June 27, 1952, ch. 477, title III, ch. 2, § 324, 66 Stat. 246; Pub. L. 100–525, § 9(x), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(b)(3), (c)(7), (d)(6), Nov. 29, 1990, 104 Stat. 5040–5042; Pub. L. 103–416, title I, § 103(a), Oct. 25, 1994, 108 Stat. 4307.)

REFERENCES IN TEXT

Section 317(a) and (b) of the Nationality Act of 1940, referred to in subsecs. (a) and (c)(1), which was classified to section 717(a) and (b) of this title, was repealed by section 403(a)(42) of act June 27, 1952. See subsecs. (a) and (c) of this section.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–416 added subsec. (d).

1990—Subsec. (a)(1). Pub. L. 101–649, § 407(b)(3), (c)(7), (d)(6)(A)(i), substituted ''State or district of the Service in the United States'' for ''State'' and ''application'' for ''petition'' and inserted ''and'' at end.

Subsec. (a)(2). Pub. L. 101–649, § 407(c)(7), (d)(6)(A)(ii), substituted references to applicant and application for references to petitioner and petition, and substituted period for semicolon at end.

Subsec. (a)(3), (4). Pub. L. 101–649, § 407(d)(6)(A)(iii), struck out pars. (3) and (4) which related to filing of petition and hearing on petition.

Subsec. (b). Pub. L. 101–649, § 407(c)(7), (d)(6)(B), substituted references to application for references to petition wherever appearing, and ''Attorney General'' for ''naturalization court''.

Subsec. (c)(1). Pub. L. 101–649, § 407(c)(7), substituted ''an application'' for ''a petition''.

Subsec. (c)(2). Pub. L. 101–649, § 407(d)(6)(C)(i), substituted ''the Attorney General or the judge or clerk of a court described in section 1421(b) of this title'' for ''the judge or clerk of a naturalization court''.

Subsec. (c)(3). Pub. L. 101–649, § 407(d)(6)(C)(ii), substituted ''court, or the Attorney General'' for ''or naturalization court'' in two places.

1988—Subsec. (a)(4). Pub. L. 100–525 substituted ''has'' for ''and the witnesses have''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 103(b) of Pub. L. 103–416 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Oct. 25, 1994].''

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.

ITALIAN ELECTIONS; NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ELECTIONS

Section 1 of act Aug. 16, 1951, as amended by section 402(j) of act June 27, 1952, provided: ''That a person who, while a citizen of the United States, has lost citizenship of the United States solely by reason of having voted in a political election or plebiscite held in Italy between January 1, 1946, and April 18, 1948, inclusive, and who has not subsequent to such voting committed any act which, had he remained a citizen, would have operated to expatriate him, may be naturalized by taking, prior to two years from the enactment of this Act [June 27, 1952], before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, the oath required by section 337 of the Immigration and Nationality Act [section 1448 of this title]. Certified copies of such oath shall be sent by such diplomatic or consular officer or such court to the Department of State and to the Department of Justice. Such person shall have, from and after naturalization under this section, the same citizenship status as that which existed immediately prior to its loss: *Provided*, That no such person shall be eligible to take the oath required by section 337 of the Immigration and Nationality Act [section 1448 of this title] unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. The illegal or fraudulent procurement of naturalization under this amendment shall be subject to cancellation in the same manner as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title].''

JAPANESE ELECTIONS; NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ELECTIONS

Act July 20, 1954, ch. 553, 68 Stat. 495, provided: ''That a person who has lost United States citizenship solely by reason of having voted in any political election or plebiscite held in Japan between September 2, 1945, and April 27, 1952, inclusive, and who has not, subsequent to such voting, committed any act which, had he remained a citizen, would have operated to expatriate him, and is not otherwise disqualified from becoming a citizen by reason of sections 313 or 314, or the third sentence of section 318 of the Immigration and Nationality Act [sections 1424, 1425, 1429 of this title], may be naturalized by taking, prior to two years after the date of the enactment of this Act [July 20, 1954], before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title] or before any diplomatic or consular officer of the United States abroad, the applicable oath prescribed by section 337 of such Act [section 1448 of this title]. Certified copies of such oath shall be sent by such court or such diplomatic or consular officer to the Department of State and to the Department of Justice. Such oath of allegiance shall be

entered in the records of the appropriate naturalization court, embassy, legation, or consulate, and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the naturalization court, embassy, legation or consulate, shall be delivered to such person at a cost not exceeding $5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. Any such person shall have, from and after naturalization under this Act, the same citizenship status as that which existed immediately prior to its loss: *Provided*, That no such person shall be eligible to take the oath prescribed by section 337 of the Immigration and Nationality Act [section 1448 of this title] unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. Naturalization procured under this Act shall be subject to revocation as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title], and subsection (f) of that section [section 1451(f) of this title] shall apply to any person claiming United States citizenship through the naturalization of an individual under this Act.''

§ 1436. Nationals but not citizens; residence within outlying possessions

A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this subchapter, except that in applications for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this subchapter shall include residence and physical presence within any of the outlying possessions of the United States.

(June 27, 1952, ch. 477, title III, ch. 2, § 325, 66 Stat. 248; Pub. L. 101–649, title IV, § 407(c)(8), Nov. 29, 1990, 104 Stat. 5041.)

AMENDMENTS

1990—Pub. L. 101–649 substituted ''applications'' for ''petitions''.

§ 1437. Resident Philippine citizens excepted from certain requirements

Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent residence for the purpose of applying for naturalization under this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, § 326, 66 Stat. 248; Pub. L. 101–649, title IV, § 407(c)(9), Nov. 29, 1990, 104 Stat. 5041.)

AMENDMENTS

1990—Pub. L. 101–649 substituted ''applying'' for ''petitioning''.

§ 1438. Former citizens losing citizenship by entering armed forces of foreign countries during World War II

(a) Requirements; oath; certified copies of oath

Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of subchapter III of this chapter, except section 1427(a) of this title, and except as otherwise provided in subsection (b) of this section, be naturalized by taking before the Attorney General or before a court described in section 1421(b) of this title the oath required by section 1448 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice and by the Attorney General to the Secretary of State.

(b) Exceptions

No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a) of this section, a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Status

Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein, or in any other provision of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) Span of World War II

For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(e) Inapplicability to certain persons

This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States

(June 27, 1952, ch. 477, title III, ch. 2, § 327, 66 Stat. 248; Pub. L. 101–649, title IV, § 407(d)(7), Nov. 29, 1990, 104 Stat. 5042.)

REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (c), which was classified to section 723 of this

title, was repealed by section 403(a)(42) of act June 27, 1952. See subsec. (a) of this section.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–649 substituted ''the Attorney General or before a court described in section 1421(b) of this title'' for ''any naturalization court specified in section 1421(a) of this title'' and inserted ''and by the Attorney General to the Secretary of State'' before period at end.

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.

§ 1439. Naturalization through service in the armed forces

(a) Requirements

A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

(b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) no residence within a State or district of the Service in the United States shall be required;

(2) notwithstanding section 1429 of this title insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service;

(3) the applicant shall furnish to the Secretary of Homeland Security, prior to any hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable (the certificate or certificates herein provided for shall be conclusive evidence of such service and discharge); and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

(c) Periods when not in service

In the case such applicant's service was not continuous, the applicant's residence in the United States and State or district of the Service in the United States, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such application between the periods of applicant's service in the Armed Forces, shall be alleged in the application filed under the provisions of subsection (a) of this section, and proved at any hearing thereon. Such allegation and proof shall also be made as to any period between the termination of applicant's service and the filing of the application for naturalization.

(d) Residence requirements

The applicant shall comply with the requirements of section 1427(a) of this title, if the termination of such service has been more than six months preceding the date of filing the application for naturalization, except that such service within five years immediately preceding the date of filing such application shall be considered as residence and physical presence within the United States.

(e) Moral character

Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 1427(a) of this title.

(f) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.

(June 27, 1952, ch. 477, title III, ch. 2, § 328, 66 Stat. 249; Pub. L. 90–633, § 5, Oct. 24, 1968, 82 Stat.

1344; Pub. L. 97–116, § 15(e), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 101–649, title IV, § 407(b)(4), (c)(10), (d)(8), Nov. 29, 1990, 104 Stat. 5040–5042; Pub. L. 102–232, title III, § 305(c), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 108–136, div. A, title XVII, § 1701(a), (b)(1), (c)(1)(A), (f), Nov. 24, 2003, 117 Stat. 1691, 1692.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 1701(a), substituted ''one year,'' for ''three years,''.

Subsec. (b)(3). Pub. L. 108–136, § 1701(f), substituted ''Secretary of Homeland Security'' for ''Attorney General''.

Pub. L. 108–136, § 1701(b)(1)(A), substituted ''honorable (the'' for ''honorable. The'' and ''discharge); and'' for ''discharge.''

Subsec. (b)(4). Pub. L. 108–136, § 1701(b)(1)(B), added par. (4).

Subsec. (f). Pub. L. 108–136, § 1701(c)(1)(A), added subsec. (f).

1991—Subsecs. (b), (c). Pub. L. 102–232 amended directory language of Pub. L. 101–649, § 407(d)(8). See 1990 Amendment notes below.

1990—Subsec. (a). Pub. L. 101–649, § 407(b)(4)(A), (c)(10), substituted ''State or district of the Service in the United States'' for ''State'', ''for at least three months'' for ''for at least six months'', and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b). Pub. L. 101–649, § 407(b)(4)(B), (c)(10), (d)(8), as amended by Pub. L. 102–232, substituted ''within a State or district of the Service in the United States'' for ''within the jurisdiction of the court'' in par. (1), ''any hearing'' for ''the final hearing'' in par. (3), and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101–649, § 407(b)(4)(C), (c)(10), (d)(8), as amended by Pub. L. 102–232, substituted ''State or district of the Service in the United States'' for ''State'', ''any hearing'' for ''the final hearing'', and references to applicant's and application for references to petitioner's and petition wherever appearing.

Subsec. (d). Pub. L. 101–649, § 407(c)(10), substituted references to applicant and application for references to petitioner and petition wherever appearing.

1981—Subsec. (b)(2). Pub. L. 97–116 struck out ''and section 1447(c) of this title'' after ''relates to deportability'' and ''and the witnesses'' after ''petition, the petitioner''.

1968—Subsec. (b)(2). Pub. L. 90–633 inserted reference to section 1429 of this title as it relates to deportability.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title XVII, § 1701(c)(2), Nov. 24, 2003, 117 Stat. 1692, provided that: ''The amendments made by paragraph (1) [amending this section and section 1440 of this title] shall apply to citizenship granted on or after the date of the enactment of this Act [Nov. 24, 2003].''

Pub. L. 108–136, div. A, title XVII, § 1705, Nov. 24, 2003, 117 Stat. 1696, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), this title [enacting section 1443a of this title, amending this section and sections 1430, 1440 and 1440–1 of this title, and enacting provisions set out as notes under this section and sections 1151, 1430, and 1443a of this title] and the amendments made by this title shall take effect as if enacted on September 11, 2001.

''(b) EXCEPTION.—The amendments made by sections 1701(b) (relating to naturalization fees) [amending this section and section 1440 of this title] and 1701(d) (relating to naturalization proceedings overseas) [enacting section 1443a of this title] shall take effect on October 1, 2004.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

§ 1440. Naturalization through active-duty service in the Armed Forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities

(a) Requirements

Any person who, while an alien or a noncitizen national of the United States, has served honorably as a member of the Selected Reserve of the Ready Reserve or in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as of the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment, reenlistment, extension of enlistment, or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, or on board a public vessel owned or operated by the United States for noncommercial service, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided*, *however*, That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of an application for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 1429 of this title as they relate to deportability and the provisions of section 1442 of this title;

(2) no period of residence or specified period of physical presence within the United States or any State or district of the Service in the United States shall be required;

(3) service in the military, air or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the applicant served or is serving, which shall state whether the applicant served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions; and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

(c) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.

(June 27, 1952, ch. 477, title III, ch. 2, § 329, 66 Stat. 250; Pub. L. 87–301, § 8, Sept. 26, 1961, 75 Stat. 654; Pub. L. 90–633, §§ 1, 2, 6, Oct. 24, 1968, 82 Stat. 1343, 1344; Pub. L. 97–116, § 15(a), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100–525, § 9(y), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(b)(5), (c)(11), Nov. 29, 1990, 104 Stat. 5040, 5041; Pub. L. 102–232, title III, § 305(b), Dec. 12, 1991, 105 Stat. 1749; Pub. L. 105–85, div. A, title X, § 1080(a), Nov. 18, 1997, 111 Stat. 1916; Pub. L. 108–136, div. A, title XVII, §§ 1701(b)(2), (c)(1)(B), 1702, Nov. 24, 2003, 117 Stat. 1691–1693.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 1702, inserted ''as a member of the Selected Reserve of the Ready Reserve or'' after ''has served honorably'' in first sentence.

Subsec. (b). Pub. L. 108–136, § 1701(b)(2), added par. (4).

Subsec. (c). Pub. L. 108–136, § 1701(c)(1)(B), amended text generally. Prior to amendment, text read as follows: ''Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.''

1997—Subsec. (a)(1). Pub. L. 105–85 inserted '', reenlistment, extension of enlistment,'' after ''at the time of enlistment'' and ''or on board a public vessel owned or operated by the United States for noncommercial service,'' after ''Swains Island,''.

1991—Subsecs. (a), (b). Pub. L. 102–232 made technical correction to directory language of Pub. L. 101–649, § 407(c)(11). See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101–649, § 407(c)(11), as amended by Pub. L. 102–232, substituted ''an application'' for ''a petition''.

Subsec. (b). Pub. L. 101–649, § 407(c)(11), as amended by Pub. L. 102–232, substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b)(2). Pub. L. 101–649, § 407(b)(5)(A), substituted ''State or district of the Service in the United States'' for ''State'' and inserted ''and'' at end.

Subsec. (b)(3), (4). Pub. L. 101–649, § 407(b)(5)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which authorized filing of petition in any court having naturalization jurisdiction.

1988—Subsec. (d). Pub. L. 100–525 struck out subsec. (d) which read as follows: ''The eligibility for naturalization of any person who filed a petition for naturalization prior to January 1, 1947, under section 701 of the Nationality Act of 1940, as amended (56 Stat. 182, 58 Stat. 886, 59 Stat. 658), and which is still pending on the effective date of this chapter, shall be determined in accordance with the provisions of this section.''

1981—Subsec. (b)(5). Pub. L. 97–116 struck out par. (5) which provided that, notwithstanding section 1447(c) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses have appeared before and been examined by a representative of the Service.

1968—Subsec. (a). Pub. L. 90–633, § 1, added the Vietnam hostilities and any subsequent period of military operations involving armed conflict with a hostile foreign force as periods during which a person may be naturalized through service in active duty status.

Subsec. (b)(1). Pub. L. 90–633, § 6, inserted reference to provisions of section 1429 of this title as they relate to deportability.

Subsec. (b)(4). Pub. L. 90–633, § 2, inserted reference to the period of the Vietnam hostilities and to any other subsequent period which the President by Executive order designates as a period in which the Armed Forces

of the United States were engaged in military operations involving armed conflict with a hostile foreign force.

1961—Subsecs. (a), (b)(4). Pub. L. 87–301 inserted ''or during a period beginning June 25, 1950, and ending July 1, 1955''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 1701(c)(1)(B) of Pub. L. 108–136 applicable to citizenship granted on or after Nov. 24, 2003, see section 1701(c)(2) of Pub. L. 108–136, set out as a note under section 1439 of this title.

Amendment by section 1701(b)(2) of Pub. L. 108–136 effective Oct. 1, 2004, and amendments by sections 1701(c)(1)(B) and 1702 of Pub. L. 108–136 effective as if enacted Sept. 11, 2001, see section 1705 of Pub. L. 108–136, set out as a note under section 1439 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1080(b) of Pub. L. 105–85 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to enlistments, reenlistments, extensions of enlistment, and inductions of persons occurring on or after the date of the enactment of this Act [Nov. 18, 1997].''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

NATURALIZATION OF NATIVES OF PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II

Pub. L. 102–395, title I, § 113, Oct. 6, 1992, 106 Stat. 1844, which provided that, notwithstanding any other provision of law, effective 120 days after Oct. 6, 1992, and applicable to natives of the Philippines who applied for naturalization under section 405 of Pub. L. 101–649, set out below, and who applied within 2 years after such effective date, the naturalization of natives of the Philippines who apply for naturalization under section 405 of Pub. L. 101–649 was to be conducted in Philippines as well as in United States by employees of Immigration and Naturalization Service designated pursuant to section 1446(b) of this title, and required Attorney General to prescribe necessary implementing regulations and maintain permanent records of the oaths of allegiance taken in accordance with these provisions, was repealed by Pub. L. 105–119, title I, § 112(c), Nov. 26, 1997, 111 Stat. 2460.

Pub. L. 101–649, title IV, § 405, Nov. 29, 1990, 104 Stat. 5039, as amended by Pub. L. 103–416, title I, § 104(d), Oct. 25, 1994, 108 Stat. 4308; Pub. L. 105–119, title I, § 112(b), Nov. 26, 1997, 111 Stat. 2459, provided that section 1440(a)(1) and (2) of this title did not apply to the naturalization of certain persons born in the Philippines who served honorably in an active duty status during the World War II occupation and liberation of the Philippines within the Philippine Army or within a recognized guerilla unit or who served within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East at any time during the period beginning September 1, 1939, and ending December 31, 1946, who were otherwise eligible for naturalization under section 1440, and who applied for naturalization during the 2-year period beginning on Nov. 29, 1990.

NATURALIZATION OF ALIENS ENLISTED IN REGULAR ARMY

Act June 30, 1950, ch. 443, § 4, 64 Stat. 316, as amended June 27, 1952, ch. 477, title IV, § 402(e), 66 Stat. 276, provided that: ''Notwithstanding the dates or periods of service specified and designated in section 329 of the Immigration and Nationality Act [this section], the provisions of that section are applicable to aliens enlisted or reenlisted pursuant to the provisions of this Act and who have completed five or more years of military service, if honorably discharged therefrom. Any alien enlisted or reenlisted pursuant to the provisions of this Act who subsequently enters the United States, American Samoa, Swains Island, or the Canal Zone, pursuant to military orders shall, if otherwise qualified for citizenship, and after completion of five or more years of military service, if honorably discharged therefrom, be deemed to have been lawfully admitted to the United States for permanent residence within the meaning of such section 329(a) [subsection (a) of this section].''

EX. ORD. NO. 12081. TERMINATION OF EXPEDITIOUS NATURALIZATION BASED ON MILITARY SERVICE

Ex. Ord. No. 12081, Sept. 18, 1978, 43 F.R. 42237, provided:

By the authority vested in me as President of the United States of America by Section 329 of the Immigration and Nationality Act, as amended by Sections 1 and 2 of the Act of October 24, 1968 (82 Stat. 1343; 8 U.S.C. 1440), and by the authority of Section 3 of that Act of October 24, 1968 (82 Stat. 1344; 8 U.S.C. 1440e), it is hereby ordered that the statutory period of Vietnam hostilities which began on February 28, 1961, shall be deemed to have terminated on October 15, 1978, for the purpose of ending the period in which active-duty service in the Armed Forces qualifies for certain exemptions from the usual requirements for naturalization, including length of residence and fees.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12582

Ex. Ord. No. 12582, Feb. 2, 1987, 52 F.R. 3395, which provided for expedited naturalization for aliens and noncitizens who served in the Armed Forces in the Grenada campaign by making them eligible in accordance with statutory exceptions in section 1440(b) of this title, was revoked, effective Feb. 2, 1987, by Ex. Ord. No. 12913, May 2, 1994, 59 F.R. 23115, such revocation not intended to affect status of anyone who was naturalized pursuant to terms of that order prior to the date of publication of Ex. Ord. No. 12582 in the Federal Register (May 4, 1994).

EX. ORD. NO. 12939. EXPEDITED NATURALIZATION OF ALIENS AND NONCITIZEN NATIONALS WHO SERVED IN ACTIVE-DUTY STATUS DURING PERSIAN GULF CONFLICT

Ex. Ord. No. 12939, Nov. 22, 1994, 59 F.R. 61231, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1440 of title 8, United States Code, and in order to provide expedited naturalization for aliens and noncitizen nationals who served in an active-duty status in the Armed Forces of the United States during the period of the Persian Gulf Conflict, it is hereby ordered as follows:

For the purpose of determining qualification for the exception from the usual requirements for naturalization, the period of Persian Gulf Conflict military operations in which the Armed Forces of the United States were engaged in armed conflict with a hostile force commenced on August 2, 1990, and terminated on April 11, 1991. Those persons serving honorably in active-duty status in the Armed Forces of the United States during this period are eligible for naturalization in accordance

with the statutory exception to the naturalization requirements, as provided in section 1440(b) of title 8, United States Code.

WILLIAM J. CLINTON.

EX. ORD. NO. 13269. EXPEDITED NATURALIZATION OF ALIENS AND NONCITIZEN NATIONALS SERVING IN AN ACTIVE-DUTY STATUS DURING THE WAR ON TERRORISM

Ex. Ord. No. 13269, July 3, 2002, 67 F.R. 45287, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) (the ''Act''), and solely in order to provide expedited naturalization for aliens and noncitizen nationals serving in an active-duty status in the Armed Forces of the United States during the period of the war against terrorists of global reach, it is hereby ordered as follows:

For the purpose of determining qualification for the exception from the usual requirements for naturalization, I designate as a period in which the Armed Forces of the United States were engaged in armed conflict with a hostile foreign force the period beginning on September 11, 2001. Such period will be deemed to terminate on a date designated by future Executive Order. Those persons serving honorably in active-duty status in the Armed Forces of the United States, during the period beginning on September 11, 2001, and terminating on the date to be so designated, are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 329 of the Act. Nothing contained in this order is intended to affect, nor does it affect, any other power, right, or obligation of the United States, its agencies, officers, employees, or any other person under Federal law or the law of nations.

GEORGE W. BUSH.

§ 1440–1. Posthumous citizenship through death while on active-duty service in armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities

(a) Permitting granting of posthumous citizenship

Notwithstanding any other provision of this subchapter, the Secretary of Homeland Security shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) of this section if the Secretary of Homeland Security approves an application for that posthumous citizenship under subsection (c) of this section.

(b) Noncitizens eligible for posthumous citizenship

A person referred to in subsection (a) of this section is a person who, while an alien or a noncitizen national of the United States—

(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 1440(a) of this title,

(2) died as a result of injury or disease incurred in or aggravated by that service, and

(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 1440(a) of this title.

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

(c) Requests for posthumous citizenship

(1) In general

A request for the granting of posthumous citizenship to a person described in subsection (b) of this section may be filed on behalf of that person—

(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

(B) by the next-of-kin.

(2) Approval

The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

(A) the request is filed not later than 2 years after—

(i) November 24, 2003; or

(ii) the date of the person's death;

whichever date is later;

(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b) of this section; and

(C) the Director finds that the person satisfied the requirement of subsection (b)(3) of this section.

(d) Documentation of posthumous citizenship

If the Director of the Bureau of Citizenship and Immigration Services approves the request referred to in subsection (c) of this section, the Director shall send to the next-of-kin of the person who is granted citizenship, a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

(June 27, 1952, ch. 477, title III, ch. 2, § 329A, as added Pub. L. 101–249, § 2(a), Mar. 6, 1990, 104 Stat. 94; Pub. L. 107–273, div. C, title I, § 11030(b), Nov. 2, 2002, 116 Stat. 1836; Pub. L. 108–136, div. A, title XVII, §§ 1703(g), 1704, Nov. 24, 2003, 117 Stat. 1695, 1696.)

CODIFICATION

November 24, 2003, referred to in subsec. (c)(2)(A)(i), was in the original ''the date of enactment of this section'', which was translated as meaning the date of enactment of Pub. L. 108–136, which enacted subsec. (c) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 1703(g)(2), substituted ''Secretary of Homeland Security'' for ''Attorney General'' in two places.

Subsec. (c). Pub. L. 108–136, § 1704(1), added heading and text of subsec. (c) and struck out former subsec. (c) which related to procedures for approval by the Attorney General of a request for the granting of posthumous citizenship.

Subsec. (d). Pub. L. 108–136, § 1704(2), added heading and text of subsec. (d) and struck out former subsec. (d) which read as follows: ''If the Attorney General approves such a request to grant a person posthumous

citizenship, the Attorney General shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.''

Subsec. (e). Pub. L. 108–136, §1703(g)(1), struck out heading and text of subsec. (e). Text read as follows: ''Nothing in this section or section 1430(d) of this title shall be construed as providing for any benefits under this chapter for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.''

2002—Subsec. (c)(1)(A). Pub. L. 107–273 substituted ''November 2, 2002,'' for ''March 6, 1990,''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective as if enacted Sept. 11, 2001, see section 1705 of Pub. L. 108–136, set out in a note under section 1439 of this title.

§§ 1440a to 1440d. Omitted

CODIFICATION

Sections, act June 30, 1953, ch. 162, §§1–4, 67 Stat. 108–110, which authorized naturalization of persons who served in the Armed Forces after June 29, 1950, and not later than July 1, 1955, were omitted as obsolete, since the provisions of section 1 of act June 30, 1953, required the petition for naturalization to be filed not later than December 31, 1955. See sections 1440 and 1440e of this title.

§ 1440e. Exemption from naturalization fees for aliens naturalized through service during Vietnam hostilities or other subsequent period of military hostilities; report by clerks of courts to Attorney General

Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect a naturalization fee from an alien who has served in the military, air, or naval forces of the United States during a period beginning February 28, 1961, and ending on the date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who is applying for naturalization during such periods under section 329 of the Immigration and Nationality Act, as amended by this Act [8 U.S.C. 1440], for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this section shall be made to the Attorney General as in the case of other reports required of clerks of courts by title III of the Immigration and Nationality Act [8 U.S.C. 1401 et seq.].

(Pub. L. 90–633, §3, Oct. 24, 1968, 82 Stat. 1344.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Title III of the Act is classified principally to subchapter III (§1401 et seq.) of 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 part of the Immigration and Nationality Act which comprises this chapter.

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.

§ 1441. Constructive residence through service on certain United States vessels

Any periods of time during all of which a person who was previously lawfully admitted for permanent residence has served honorably or with good conduct, in any capacity other than as a member of the Armed Forces of the United States, (A) on board a vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in the United States; or (B) on board a vessel whose home port is in the United States, and (i) which is registered under the laws of the United States, or (ii) the full legal and equitable title to which is in a citizen of the United States, or a corporation organized under the laws of any of the several States of the United States, shall be deemed residence and physical presence within the United States within the meaning of section 1427(a) of this title, if such service occurred within five years immediately preceding the date such person shall file an application for naturalization. Service on vessels described in clause (A) of this section shall be proved by duly authenticated copies of the records of the executive departments or agency having custody of the records of such service. Service on vessels described in clause (B) of this section may be proved by certificates from the masters of such vessels.

(June 27, 1952, ch. 477, title III, ch. 2, §330, 66 Stat. 251; Pub. L. 100–525, §9(z), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, §407(c)(12), Nov. 29, 1990, 104 Stat. 5041; Pub. L. 102–232, title III, §305(m)(5), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Pub. L. 102–232 substituted ''of this section'' for ''of this subsection'' in two places.

1990—Pub. L. 101–649 substituted ''an application'' for ''a petition''.

1988—Pub. L. 100–525 designated provisions of former par. (1) of subsec. (a) as entire section, and struck out former pars. (2) and (3) and subsec. (b) which read as follows:

''(2) For the purposes of this subsection, any periods of time prior to September 23, 1950, during all of which any person had served honorably or with good conduct for an aggregate period of five years on any vessel described in section 325(a) of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, shall be deemed residence and physical presence within the United States within the meaning of section 1427(a) of this title, if such petition is filed within one year from the effective date of this chapter. Notwithstanding the provisions of section 1429 of this title, a person entitled to claim the exemptions contained in this paragraph shall not be required to establish a lawful admission for permanent residence.

''(3) For the purposes of this subsection, any periods of time prior to September 23, 1950, during all of which

any person not within the provisions of paragraph (2) of this subsection had, prior to September 23, 1950, served honorably or with good conduct on any vessel described in section 325(a) of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, and was so serving on September 23, 1950, shall be deemed residence and physical presence within the United States within the meaning of section 1427(a) of this title, if such person at any time prior to filing his petition for naturalization shall have been lawfully admitted to the United States for permanent residence, and if such petition is filed on or before September 23, 1955.

''(b) Any person who was excepted from certain requirements of the naturalization laws under section 325 of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, and had filed a petition for naturalization under section 325 of the Nationality Act of 1940, may, if such petition was pending on September 23, 1950, and is still pending on the effective date of this chapter, be naturalized upon compliance with the applicable provisions of the naturalization laws in effect upon the date such petition was filed: *Provided*, That any such person shall be subject to the provisions of section 1424 of this title and to those provisions of section 1429 of this title which relate to the prohibition against the naturalization of a person against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act, or which relate to the prohibition against the final hearing on a petition for naturalization if there is pending against the petitioner a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

§ 1442. Alien enemies

(a) Naturalization under specified conditions

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's application for naturalization shall be pending at the beginning of the state of war and the applicant is otherwise entitled to admission to citizenship.

(b) Procedure

An alien embraced within this section shall not have his application for naturalization considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued from time to time for so long as the Attorney General may require.

(c) Exceptions from classification

The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have an application for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this subchapter, and thereupon such alien shall have the privilege of filing an application for naturalization.

(d) Effect of cessation of hostilities

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended.

(e) Apprehension and removal

Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien.

(June 27, 1952, ch. 477, title III, ch. 2, § 331, 66 Stat. 252; Pub. L. 101–649, title IV, § 407(c)(13), (d)(9), (e)(2), Nov. 29, 1990, 104 Stat. 5041, 5042, 5046.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–649, § 407(c)(13), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b). Pub. L. 101–649, § 407(d)(9), substituted ''considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued'' for ''called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Attorney General to be represented at the hearing, and the Attorney General's objection to such final hearing shall cause the petition to be continued''.

Pub. L. 101–649, § 407(c)(13), substituted ''application'' for ''petition'' after ''have his''.

Subsec. (c). Pub. L. 101–649, § 407(c)(13), substituted ''an application'' for ''a petition'' wherever appearing.

Subsec. (d). Pub. L. 101–649, § 407(e)(2), struck out at end ''Notwithstanding the provisions of section 405(b) of this Act, this subsection shall also apply to the case of any such alien whose petition for naturalization was filed prior to the effective date of this chapter and which is still pending on that date.''

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.

§ 1443. Administration

(a) Rules and regulations governing examination of applicants

The Attorney General shall make such rules and regulations as may be necessary to carry into effect the provisions of this part and is authorized to prescribe the scope and nature of the examination of applicants for naturalization as to their admissibility to citizenship. Such examination shall be limited to inquiry concerning the applicant's residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(b) Instruction in citizenship

The Attorney General is authorized to promote instruction and training in citizenship re-

sponsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and national organizations, including those concerned with vocational education.

(c) Prescription of forms

The Attorney General shall prescribe and furnish such forms as may be required to give effect to the provisions of this part, and only such forms as may be so provided shall be legal. All certificates of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(d) Administration of oaths and depositions

Employees of the Service may be designated by the Attorney General to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or of hardship, the Attorney General may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(e) Issuance of certificate of naturalization or citizenship

A certificate of naturalization or of citizenship issued by the Attorney General under the authority of this subchapter shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and outlying possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(f) Copies of records

Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this chapter shall be admitted in evidence equally with the originals in any and all cases and proceedings under this chapter and in all cases and proceedings in which the originals thereof might be admissible as evidence.

(g) Furnished quarters for photographic studios

The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters, without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of persons seeking to comply with requirements under the immigration and nationality laws. Such studio shall be under the supervision of the Attorney General.

(h) Public education regarding naturalization benefits

In order to promote the opportunities and responsibilities of United States citizenship, the Attorney General shall broadly distribute information concerning the benefits which persons may receive under this subchapter and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations. There are authorized to be appropriated (for each fiscal year beginning with fiscal year 1991) such sums as may be necessary to carry out this subsection.

(June 27, 1952, ch. 477, title III, ch. 2, § 332, 66 Stat. 252; Pub. L. 101–649, title IV, §§ 406, 407(d)(10), Nov. 29, 1990, 104 Stat. 5040, 5042; Pub. L. 102–232, title III, § 305(m)(6), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–232 substituted ''applicants'' for ''petitioners'' in first sentence.

1990—Subsec. (a). Pub. L. 101–649, § 407(d)(10), struck out ''for the purpose of making appropriate recommendations to the naturalization courts'' before period at end of first sentence and struck out second sentence which read as follows: ''Such examination, in the discretion of the Attorney General, and under such rules and regulations as may be prescribed by him, may be conducted before or after the applicant has filed his petition for naturalization.''

Subsec. (h). Pub. L. 101–649, § 406, added subsec. (h).

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

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.

§ 1443a. Naturalization proceedings overseas for members of the Armed Forces

Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(Pub. L. 108–136, div. A, title XVII, § 1701(d), Nov. 24, 2003, 117 Stat. 1692.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Title III of the Act is classified principally to subchapter III (§ 1401 et seq.) of 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 enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part

of the Immigration and Nationality Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 2004, see section 1705(b) of Pub. L. 109–136, set out as an Effective Date of 2003 Amendment note under section 1439 of this title.

FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES

Pub. L. 108–136, div. A, title XVII, § 1701(e), Nov. 24, 2003, 117 Stat. 1692, provided that: ''Not later than 90 days after the date of the enactment of this Act [Nov. 24, 2003], the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

''(1) A high priority for grant of emergency leave.

''(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.''

§ 1444. Photographs; number

(a) Three identical photographs of the applicant shall be signed by and furnished by each applicant for naturalization or citizenship. One of such photographs shall be affixed by the Attorney General to the original certificate of naturalization issued to the naturalized citizen and one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Three identical photographs of the applicant shall be furnished by each applicant for—

(1) a record of lawful admission for permanent residence to be made under section 1259 of this title;

(2) a certificate of derivative citizenship;

(3) a certificate of naturalization or of citizenship;

(4) a special certificate of naturalization;

(5) a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed;

(6) a new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had his name changed by order of a court of competent jurisdiction or by marriage; and

(7) a declaration of intention.

One such photograph shall be affixed to each such certificate issued by the Attorney General and one shall be affixed to the copy of such certificate retained by the Service.

(June 27, 1952, ch. 477, title III, ch. 2, § 333, 66 Stat. 253; Pub. L. 101–649, title IV, § 407(c)(14), (d)(11), Nov. 29, 1990, 104 Stat. 5041, 5042; Pub. L. 103–416, title II, § 219(w), Oct. 25, 1994, 108 Stat. 4318.)

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–416 substituted ''1259'' for ''1259(a)''.

1990—Subsec. (a). Pub. L. 101–649 substituted ''applicant'' for ''petitioner'' after ''by each'', and ''Attorney General'' for ''clerk of the court''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

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.

§ 1445. Application for naturalization; declaration of intention

(a) Evidence and form

An applicant for naturalization shall make and file with the Attorney General a sworn application in writing, signed by the applicant in the applicant's own handwriting if physically able to write, which application shall be on a form prescribed by the Attorney General and shall include averments of all facts which in the opinion of the Attorney General may be material to the applicant's naturalization, and required to be proved under this subchapter. In the case of an applicant subject to a requirement of continuous residence under section 1427(a) or 1430(a) of this title, the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.

(b) Who may file

No person shall file a valid application for naturalization unless he shall have attained the age of eighteen years. An application for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

(c) Hearings

Hearings under section 1447(a) of this title on applications for naturalization shall be held at regular intervals specified by the Attorney General.

(d) Filing of application

Except as provided in subsection (e) of this section, an application for naturalization shall be filed in the office of the Attorney General.

(e) Substitute filing place and administering oath other than before Attorney General

A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.

(f) Declaration of intention

An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General. Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing an application for naturalization nor shall any such declaration of intention be regarded as

conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this chapter or any other Act.

(June 27, 1952, ch. 477, title III, ch. 2, § 334, 66 Stat. 254; Pub. L. 97–116, § 15(b), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 101–649, title IV, §§ 401(b), 407(c)(15), (d)(12), Nov. 29, 1990, 104 Stat. 5038, 5041, 5042; Pub. L. 102–232, title III, § 305(d), (e), (m)(7), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–232, § 305(m)(7), struck out ", in duplicate," after "file with the Attorney General".

Pub. L. 102–232, § 305(e), made technical correction to directory language of Pub. L. 101–649, § 407(d)(12)(B). See 1990 Amendment note below.

Subsecs. (f), (g). Pub. L. 102–232, § 305(d), redesignated subsec. (g) as (f).

1990—Pub. L. 101–649, § 407(d)(12)(A), substituted "Application for naturalization; declaration of intention" for "Petition for naturalization" in section catchline.

Subsec. (a). Pub. L. 101–649, § 407(c)(15), (d)(12)(B), as amended by Pub. L. 102–232, § 305(e), substituted "with the Attorney General" for "in the office of the clerk of a naturalization court", "under this subchapter" for "upon the hearing of such petition", and "application" for "petition" wherever appearing.

Pub. L. 101–649, § 401(b), inserted at end "In the case of an applicant subject to a requirement of continuous residence under section 1427(a) or 1430(a) of this title, the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement."

Subsec. (b). Pub. L. 101–649, § 407(c)(15), (d)(12)(C), substituted "application" for "petition" in first sentence, and struck out "(1)" before "he shall have attained", "and (2) he shall have first filed an application therefor at an office of the Service in the form and manner prescribed by the Attorney General" after "eighteen years", and "petition for" after "An application for".

Subsecs. (c) to (e). Pub. L. 101–649, § 407(d)(12)(F), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which related to time to file, substitute filing place, and investigation into reasons for substitute filing place, respectively.

Subsecs. (f), (g). Pub. L. 101–649, § 407(c)(15), (d)(12)(D), (E), redesignated subsec. (f) as (g), substituted "An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General." for "Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe.", and substituted "an application" for "a petition" in last sentence.

1981—Subsec. (a). Pub. L. 97–116 struck out "and duly verified by two witnesses," after "able to write,".

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 305(d), (e) of Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

§ 1446. Investigation of applicants; examination of applications

(a) Waiver

Before a person may be naturalized, an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person applying for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his application for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) Conduct of examinations; authority of designees; record

The Attorney General shall designate employees of the Service to conduct examinations upon applications for naturalization. For such purposes any such employee so designated is authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any applicant for naturalization, to administer oaths, including the oath of the applicant for naturalization, and to require by subpena the attendance and testimony of witnesses, including applicant, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any district court of the United States; and any such court may, in the event of neglect or refusal to respond to a subpena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the examination authorized by this subsection shall be admissible as evidence in any hearing conducted by an immigration officer under section 1447(a) of this title. Any such employee shall, at the examination, inform the applicant of the remedies available to the applicant under section 1447 of this title.

(c) Transmittal of record of examination

The record of the examination upon any application for naturalization may, in the discretion of the Attorney General be transmitted to the Attorney General and the determination with respect thereto of the employee designated to conduct such examination shall when made also be transmitted to the Attorney General.

(d) Determination to grant or deny application

The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

(e) Withdrawal of application

After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

(f) Transfer of application

An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.

(June 27, 1952, ch. 477, title III, ch. 2, § 335, 66 Stat. 255; Pub. L. 97–116, § 15(c), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100–525, § 9(aa), (bb), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, §§ 401(c), 407(c)(16), (d)(13), Nov. 29, 1990, 104 Stat. 5038, 5041, 5043; Pub. L. 102–232, title III, § 305(f), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–232 substituted ''district court'' for ''District Court''.

1990—Pub. L. 101–649, § 407(d)(13)(A), substituted ''Investigation of applicants; examination of applications'' for ''Investigation of petitioners'' in section catchline.

Subsec. (a). Pub. L. 101–649, § 407(c)(16), (d)(13)(B), substituted ''Before a person may be naturalized'' for ''At any time prior to the holding of the final hearing on a petition for naturalization provided for by section 1447(a) of this title'', ''applying'' for ''petitioning'', and ''application'' for ''petition''.

Subsec. (b). Pub. L. 101–649, § 407(c)(16), (d)(13)(C), substituted ''applications'' for ''petitions'' and ''applicant'' for ''petitioner'' wherever appearing, struck out ''preliminary'' before ''examinations'' and before ''examination'', struck out ''to any naturalization court and to make recommendations thereon to such court'' before period at end of first sentence, substituted ''any District Court of the United States'' for ''any court exercising naturalization jurisdiction as specified in section 1421 of this title'', and substituted ''hearing conducted by an immigration officer under section 1447(a) of this title'' for ''final hearing conducted by a naturalization court designated in section 1421 of this title''.

Pub. L. 101–649, § 401(c), inserted at end ''Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 1447 of this title.''

Subsec. (c). Pub. L. 101–649, § 407(c)(16), (d)(13)(D), struck out ''preliminary'' before ''examination'' wherever appearing, and substituted ''determination'' for ''recommendation'' and ''application'' for ''petition''.

Subsecs. (d) to (f). Pub. L. 101–649, § 407(d)(13)(E), amended subsecs. (d) to (f) generally, substituting provisions relating to determinations, withdrawal of application, and transfer of application, for provisions relating to recommendations, withdrawal of petition, and transfer of petition, respectively.

1988—Subsec. (d). Pub. L. 100–525, § 9(aa), substituted ''approves'' for ''approve'' in fourth sentence.

Subsec. (f)(2). Pub. L. 100–525, § 9(bb), struck out before period at end '', except that the court to which the petition is transferred may in its discretion, require the production of two credible United States citizen witnesses to testify as to the petitioner's qualifications for naturalization since the date of such transfer''.

1981—Subsec. (b). Pub. L. 97–116, § 15(c)(1), struck out ''and the oaths of petitioner's witnesses to the petition for naturalization'' after ''oath of the petitioner for naturalization''.

Subsec. (f). Pub. L. 97–116, § 15(c)(2), (3), redesignated subsec. (i) as (f) and struck out former subsec. (f) which required affidavits of at least two credible witnesses, citizens of the United States, concerning the residency and the good moral character, etc., of the petitioner.

Subsec. (g). Pub. L. 97–116, § 15(c)(2), struck out subsec. (g) which related to proof of residence at the hearing on the petition.

Subsec. (h). Pub. L. 97–116, § 15(c)(2), struck out subsec. (h) which related to satisfactory evidence as to good moral character, etc., at the hearing on the petition.

Subsec. (i). Pub. L. 97–116, § 15(c)(3), redesignated subsec. (i) as (f).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

CRIMINAL BACKGROUND CHECKS

Pub. L. 105–119, title I, Nov. 26, 1997, 111 Stat. 2448, provided in part: ''That during fiscal year 1998 and each fiscal year thereafter, none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service shall be used to complete adjudication of an application for naturalization unless the Immigration and Naturalization Service has received confirmation from the Federal Bureau of Investigation that a full criminal background check has been completed, except for those exempted by regulation as of January 1, 1997''.

§ 1447. Hearings on denials of applications for naturalization

(a) Request for hearing before immigration officer

If, after an examination under section 1446 of this title, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

(b) Request for hearing before district court

If there is a failure to make a determination under section 1446 of this title before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

(c) Appearance of Attorney General

The Attorney General shall have the right to appear before any immigration officer in any naturalization proceedings for the purpose of cross-examining the applicant and the witnesses produced in support of the application concerning any matter touching or in any way affecting the applicant's right to admission to citizenship, and shall have the right to call witnesses, including the applicant, produce evidence, and be heard in opposition to, or in favor of the granting of any application in naturalization proceedings.

(d) Subpena of witnesses

The immigration officer shall, if the applicant requests it at the time of filing the request for the hearing, issue a subpena for the witnesses named by such applicant to appear upon the day set for the hearing, but in case such witnesses cannot be produced upon the hearing other witnesses may be summoned upon notice to the Attorney General, in such manner and at such time as the Attorney General may by regulation prescribe. Such subpenas may be enforced in the same manner as subpenas under section 1446(b) of this title may be enforced.

(e) Change of name

It shall be lawful at the time and as a part of the administration by a court of the oath of allegiance under section 1448(a) of this title for the court, in its discretion, upon the bona fide prayer of the applicant included in an appropriate petition to the court, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith.

(June 27, 1952, ch. 477, title III, ch. 2, § 336, 66 Stat. 257; Pub. L. 91–136, Dec. 5, 1969, 83 Stat. 283; Pub. L. 97–116, § 15(d), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100–525, § 9(cc), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(c)(17), (d)(14), Nov. 29, 1990, 104 Stat. 5041, 5044; Pub. L. 102–232, title III, § 305(g), (h), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsecs. (d), (e). Pub. L. 102–232, § 305(g), (h), amended Pub. L. 101–649, § 407(d)(14)(D)(i), (E)(ii), respectively. See 1990 Amendment note below.

1990—Pub. L. 101–649, § 407(d)(14)(A), amended section catchline generally.

Subsecs. (a), (b). Pub. L. 101–649, § 407(d)(14)(B), amended subsecs. (a) and (b) generally, substituting provisions relating to requests for hearing upon denial of application and failure to make determination, for provisions relating to holding of hearing in open court and exceptions to same, respectively.

Subsec. (c). Pub. L. 101–649, § 407(c)(17), (d)(14)(C), substituted ''immigration officer'' for ''court'' and references to applicant, applicant's, and application for references to petitioner, petitioner's, and petition wherever appearing.

Subsec. (d). Pub. L. 101–649, § 407(d)(14)(D)(i), as amended by Pub. L. 102–232, § 305(g), substituted ''immigration officer shall, if the applicant requests it at the time of filing the request for the hearing'' for ''clerk of court shall, if the petitioner requests it at the time for filing the petition for naturalization''.

Pub. L. 101–649, § 407(c)(17), (d)(14)(D)(ii), (iii), substituted ''applicant'' for ''petitioner'', struck out ''final'' before ''hearing'' wherever appearing, and inserted at end ''Such subpenas may be enforced in the same manner as subpenas under section 1446(b) of this title may be enforced.''

Subsec. (e). Pub. L. 101–649, § 407(d)(14)(E)(i), substituted ''administration by a court of the oath of allegiance under section 1448(a) of this title'' for ''naturalization of any person,''.

Pub. L. 101–649, § 407(d)(14)(E)(ii), as amended by Pub. L. 102–232, § 305(h), substituted ''included in an appropriate petition to the court'' for ''included in the petition for naturalization of such person''.

Pub. L. 101–649, § 407(c)(17), substituted ''applicant'' for ''petitioner''.

1988—Pub. L. 100–525 amended section catchline.

1981—Subsec. (a). Pub. L. 97–116, § 15(d)(1), struck out ''and the witnesses'' after ''such petition the petitioner''.

Subsec. (b). Pub. L. 97–116, § 15(d)(1), struck out ''and the witnesses'' after ''examination of the petitioner'' in two places.

Subsec. (c). Pub. L. 97–116, § 15(d)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which prescribed a waiting period of thirty days after the filing of a petition for naturalization for the holding of a final hearing and permitted waiver of such period by the Attorney General if he determined that a waiver was in the public interest.

Subsec. (d). Pub. L. 97–116, § 15(3), (4), redesignated subsec. (e) as (d) and struck out provision permitting the substitution of witnesses if after the petition is filed any of the verifying witnesses appear to be not competent, provided the petitioner acted in good faith in producing such witness. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 97–116, § 15(d)(4), (5), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 97–116, § 15(d)(5), redesignated subsec. (f) as (e).

1969—Subsec. (c). Pub. L. 91–136 struck out requirement that Attorney General, as a prerequisite to waiver of the waiting period, make an affirmative finding that such waiver will promote the security of the United States, and further struck out the provision prohibiting the acquisition of citizenship by final oath within 60 days preceding a general election and prior to the tenth day following such election.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

§ 1448. Oath of renunciation and allegiance

(a) Public ceremony

A person who has applied for naturalization shall, in order to be and before being admitted to citizenship, take in a public ceremony before the Attorney General or a court with jurisdiction under section 1421(b) of this title an oath (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5)(A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by the law. Any such person shall be required to take an oath containing the substance of clauses (1) to (5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the Attorney General that he is opposed to the bearing of arms in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) to (4) and clauses (5)(B) and (5)(C) of this subsection, and a person who shows by clear and convincing evidence to the satisfaction of the Attorney General that he is opposed to any type of service in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of said clauses (1) to (4) and clause (5)(C). The term ''religious training and belief'' as used in this section shall mean an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. In the case of the naturalization of a child under the provisions of section 1433 of this title the Attorney General may waive the taking of the oath if in the opinion of the Attorney General the child is unable to understand its meaning. The Attorney General may waive the taking of the oath by a person if in the opinion of the Attorney General the person is unable to understand, or to communicate an understanding of, its meaning because of a physical or developmental disability or mental impairment. If the Attorney General waives the taking of the oath by a person under the preceding sentence, the person shall be considered to have met the requirements of section 1427(a)(3) of this title with respect to attachment to the principles of the Constitution and well disposition to the good order and happiness of the United States.

(b) Hereditary titles or orders of nobility

In case the person applying for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the applicant shall in addition to complying with the requirements of subsection (a) of this section, make under oath in the same public ceremony in which the oath of allegiance is administered, an express renunciation of such title or order of nobility, and such renunciation shall be recorded as a part of such proceedings.

(c) Expedited judicial oath administration ceremony

Notwithstanding section 1421(b) of this title, an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.

(d) Rules and regulations

The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.

(June 27, 1952, ch. 477, title III, ch. 2, § 337, 66 Stat. 258; Pub. L. 97–116, § 18(*o*), Dec. 29, 1981, 95 Stat. 1621; Pub. L. 101–649, title IV, § 407(c)(18), (d)(15), Nov. 29, 1990, 104 Stat. 5041, 5044; Pub. L. 102–232, title I, § 102(b)(2), title III, § 305(i), Dec. 12, 1991, 105 Stat. 1736, 1750; Pub. L. 106–448, § 1, Nov. 6, 2000, 114 Stat. 1939.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–448 inserted at end ''The Attorney General may waive the taking of the oath by a person if in the opinion of the Attorney General the person is unable to understand, or to communicate an understanding of, its meaning because of a physical or developmental disability or mental impairment. If the Attorney General waives the taking of the oath by a person under the preceding sentence, the person shall be considered to have met the requirements of section 1427(a)(3) of this title with respect to attachment to the principles of the Constitution and well disposition to the good order and happiness of the United States.''

1991—Subsec. (c). Pub. L. 102–232, § 102(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''If the applicant is prevented by sickness or other disability from attending a public ceremony, the oath required to be taken by subsection (a) of this section may be taken at such place as the Attorney General may designate under section 1445(e) of this title.''

Pub. L. 102–232, § 305(i), struck out ''before'' after ''may be taken''.

1990—Subsec. (a). Pub. L. 101–649, § 407(c)(18), (d)(15)(A), substituted ''applied'' for ''petitioned'' and ''applicant'' for ''petitioner'' in first sentence, ''in a public ceremony before the Attorney General or a court with jurisdiction under section 1421(b) of this title'' for ''in open court'', ''Attorney General'' for ''naturalization court'' wherever appearing in second and fourth sentences, and ''Attorney General'' for ''court'' before ''the child'' in fourth sentence.

Subsec. (b). Pub. L. 101–649, § 407(c)(18), (d)(15)(B), substituted ''applying'' for ''petitioning'', ''applicant'' for ''petitioner'', and ''in the same public ceremony in which the oath of allegiance is administered'' for ''in open court in the court in which the petition for naturalization is made'', and struck out ''in the court'' after ''shall be recorded''.

Subsec. (c). Pub. L. 101–649, § 407(c)(18), (d)(15)(C), substituted ''applicant'' for ''petitioner'', ''attending a public ceremony'' for ''being in open court'', and ''at such place as the Attorney General may designate under section 1445(e) of this title'' for ''a judge of the court at such place as may be designated by the court''.

Subsec. (d). Pub. L. 101–649, § 407(d)(15)(D), added subsec. (d).

1981—Subsec. (a). Pub. L. 97–116 substituted ''section 1433'' for ''section 1433 or 1434''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–448, § 2, Nov. 6, 2000, 114 Stat. 1939, provided that: ''The amendment made by section 1 [amending this section] shall apply to persons applying for naturalization before, on, or after the date of the enactment of this Act [Nov. 6, 2000].''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 102(b)(2) of Pub. L. 102–232 effective 30 days after Dec. 12, 1991, see section 102(c) of Pub. L. 102–232, set out as a note under section 1421 of this title.

Amendment by section 305(i) of Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

DEMONSTRATION PROJECTS TO PROVIDE FOR ADMINISTRATION OF OATH OF ALLEGIANCE

Pub. L. 104–208, div. C, title VI, § 647, Sept. 30, 1996, 110 Stat. 3009–710, provided that:

''(a) IN GENERAL.—The Attorney General shall make available funds under this section, in each of fiscal years 1997 through 2001, to the Commissioner of Immigration and Naturalization or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance under section 337(a) of the Immigration and Nationality Act [8 U.S.C. 1448(a)] on a business day around Independence Day to approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

''(b) SELECTION OF SITES.—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General shall consider changing the sites selected from year to year.

''(c) AMOUNTS AVAILABLE; USE OF FUNDS.—

''(1) AMOUNT.—The amount made available under this section with respect to any single site for a year shall not exceed $5,000.

''(2) USE.—Funds made available under this section may be used only to cover expenses incurred in carrying out oath administration ceremonies at the demonstration sites under subsection (a), including expenses for—

''(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses);

''(B) rental of space; and

''(C) costs of printing appropriate brochures and other information about the ceremonies.

''(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities shall be available, to the extent provided in appropriation Acts, to carry out this section.

''(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.''

§ 1448a. Address to newly naturalized citizens

Either at the time of the rendition of the decree of naturalization or at such other time as the judge may fix, the judge or someone designated by him shall address the newly naturalized citizen upon the form and genius of our Government and the privileges and responsibilities of citizenship; it being the intent and purpose of this section to enlist the aid of the judiciary, in cooperation with civil and educational authorities, and patriotic organizations in a continuous effort to dignify and emphasize the significance of citizenship.

(Feb. 29, 1952, ch. 49, § 2, 66 Stat. 10.)

CODIFICATION

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

Section was previously classified to section 154 of former Title 36, Patriotic Societies and Observances.

PRIOR PROVISIONS

Similar provisions were contained in act May 3, 1940, ch. 183, § 2, 54 Stat. 178, which was classified to section 727a of this title prior to repeal by act Feb. 29, 1952.

§ 1449. Certificate of naturalization; contents

A person admitted to citizenship in conformity with the provisions of this subchapter shall be entitled upon such admission to receive from the Attorney General a certificate of naturalization, which shall contain substantially the following information: Number of application for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; location of the district office of the Service in which the application was filed and the title, authority, and

location of the official or court administering the oath of allegiance; statement that the Attorney General, having found that the applicant had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the applicant be admitted as a citizen of the United States of America; attestation of an immigration officer; and the seal of the Department of Justice.

(June 27, 1952, ch. 477, title III, ch. 2, § 338, 66 Stat. 259; Pub. L. 101–649, title IV, § 407(c)(19), (d)(16), Nov. 29, 1990, 104 Stat. 5041, 5045; Pub. L. 102–232, title III, § 305(j), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 104(a), title II, § 219(z)(3), Oct. 25, 1994, 108 Stat. 4308, 4318.)

AMENDMENTS

1994—Pub. L. 103–416, § 219(z)(3), repealed Pub. L. 102–232, § 305(j)(1). See 1991 Amendment note below.

Pub. L. 103–416, § 104(a), struck out ''intends to reside permanently in the United States, except in cases falling within the provisions of section 1435(a) of this title,'' before ''had complied in''.

1991—Pub. L. 102–232, § 305(j)(2), substituted ''district'' for ''District'' before ''office of the Service''.

Pub. L. 102–232, § 305(j)(1), which made a technical correction to Pub. L. 101–649, § 407(d)(16)(C), which was unnecessary because the language sought to be corrected was already correct in Pub. L. 101–649 (see 1990 Amendment note below) was repealed by Pub. L. 103–416, § 219(z)(3). See Construction of 1994 Amendment note below.

1990—Pub. L. 101–649 substituted ''application'' for ''petition'' and ''applicant'' for ''petitioner'' in two places, struck out ''by a naturalization court'' after ''citizenship'', and substituted ''the Attorney General'' for ''the clerk of such court'', ''location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance'' for ''title, venue, and location of the naturalization court'', ''the Attorney General'' for ''the court'', and ''of an immigration officer; and the seal of the Department of Justice'' for ''of the clerk of the naturalization court; and seal of the court''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 104(e) of Pub. L. 103–416 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to persons admitted to citizenship on or after the date of enactment of this Act [Oct. 25, 1994].''

Section 219(z) of Pub. L. 103–416 provided that the amendment made by subsec. (z)(3) of that section is effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102–232.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

CONSTRUCTION OF 1994 AMENDMENT

Section 219(z)(3) of Pub. L. 103–416 provided that: ''paragraph (1) of section 305(j) of such Act [Pub. L. 102–232, amending section 407(d)(16)(C) of Pub. L. 101–649] is repealed (and section 407(d)(16)(C) of the Immigration Act of 1990 [Pub. L. 101–649, amending this section] shall read as if such paragraph had not been enacted)''.

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.

§ 1450. Functions and duties of clerks and records of declarations of intention and applications for naturalization

(a) The clerk of each court that administers oaths of allegiance under section 1448 of this title shall—

(1) deliver to each person administered the oath of allegiance by the court pursuant to section 1448(a) of this title the certificate of naturalization prepared by the Attorney General pursuant to section 1421(b)(2)(A)(ii) of this title,

(2) forward to the Attorney General a list of applicants actually taking the oath at each scheduled ceremony and information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

(3) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General, and

(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.

No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.

(June 27, 1952, ch. 477, title III, ch. 2, § 339, 66 Stat. 259; Pub. L. 101–649, title IV, § 407(d)(17), Nov. 29, 1990, 104 Stat. 5045; Pub. L. 102–232, title I, § 102(b)(1), Dec. 12, 1991, 105 Stat. 1735.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–232, § 102(b)(1)(F), inserted sentence at end relating to return of defaced or injured certificates of naturalization to Attorney General.

Subsec. (a)(1). Pub. L. 102–232, § 102(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: ''issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,''.

Subsec. (a)(2). Pub. L. 102–232, § 102(b)(1)(B), inserted ''a list of applicants actually taking the oath at each scheduled ceremony and'' after ''Attorney General''.

Subsec. (a)(3), (4). Pub. L. 102–232, § 102(b)(1)(C)–(E), added par. (4), redesignated former par. (4) as (3) and substituted '', and'' for period at end, and struck out former par. (3) which directed clerk to make and keep on file evidence for each document issued.

1990—Pub. L. 101–649 amended section generally, substituting provisions relating to functions and duties of clerks and records of declarations of intention and applications for naturalization, for provisions relating to functions and duties of clerks of naturalization courts.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective 30 days after Dec. 12, 1991, see section 102(c) of Pub. L. 102–232, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 not applicable to functions and duties respecting petitions filed before Oct. 1, 1991, see section 408(c) of Pub. L. 101–649, set out as a note under section 1421 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.

§ 1451. Revocation of naturalization

(a) Concealment of material evidence; refusal to testify

It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any district court of the United States in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided*, That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

(b) Notice to party

The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answers to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the States or the place where such suit is brought.

(c) Membership in certain organizations; prima facie evidence

If a person who shall have been naturalized after December 24, 1952 shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 1424 of this title, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(d) Applicability to citizenship through naturalization of parent or spouse

Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsection (c) of this section, or under the provisions of section 1440(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

(e) Citizenship unlawfully procured

When a person shall be convicted under section 1425 of title 18 of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(f) Cancellation of certificate of naturalization

Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. The clerk of court shall transmit a copy of such order and judgment to the Attorney General. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

(g) Applicability to certificates of naturalization and citizenship

The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this subchapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other act.

(h) Power to correct, reopen, alter, modify, or vacate order

Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person.

(June 27, 1952, ch. 477, title III, ch. 2, § 340, 66 Stat. 260; Sept. 3, 1954, ch. 1263, § 18, 68 Stat. 1232; Pub. L. 87–301, § 18, Sept. 26, 1961, 75 Stat. 656; Pub. L. 99–653, § 17, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, § 9(dd), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(d)(18), Nov. 29, 1990, 104 Stat. 5046; Pub. L. 102–232, title III, § 305(k), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 104(b), (c), Oct. 25, 1994, 108 Stat. 4308.)

REFERENCES IN TEXT

Section 702 of the Nationality Act of 1940, as amended, referred to in subsec. (g), which was classified to section 1002 of this title, was repealed by section 403(a)(42) of act June 27, 1952. See section 1440 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–416 redesignated subsec. (e) as (d) and substituted ''subsection (c)'' for ''subsections (c) or (d)'', and struck out former subsec. (d) which related to revocation of naturalization of persons who, within one year of naturalization, have taken permanent residence in country of their nativity or in any other foreign country.

Subsecs. (e) to (i). Pub. L. 103–416, § 104(c)(1), redesignated subsecs. (f) to (i) as (e) to (h), respectively. Former subsec. (e) redesignated (d).

1991—Subsec. (a). Pub. L. 102–232, § 305(k)(1), substituted ''district court'' for ''District Court'' in first sentence.

Subsec. (g). Pub. L. 102–232, § 305(k)(2), substituted ''clerk of court'' for ''clerk of the court'' in second sentence.

1990—Subsec. (a). Pub. L. 101–649, § 407(d)(18)(A), substituted ''in any District Court of the United States'' for ''in any court specified in subsection (a) of section 1421 of this title''.

Subsec. (g). Pub. L. 101–649, § 407(d)(18)(B), (C), amended second sentence generally and struck out third sentence. Prior to amendment, second and third sentences read as follows: ''In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation.''

Subsec. (i). Pub. L. 101–649, § 407(d)(18)(D), substituted ''the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person'' for ''any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment or decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure or statutes governing the jurisdiction of the court to take such action''.

1988—Subsec. (c). Pub. L. 100–525, § 9(dd)(1), substituted ''December 24, 1952'' for ''the effective date of this chapter''.

Subsecs. (e) to (j). Pub. L. 100–525, § 9(dd)(2), (3), redesignated former subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which read as follows: ''The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 338 of the Nationality Act of 1940 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or been available to a wife or minor child of the naturalized person had such naturalization not been revoked: *Provided*, That this subsection shall not apply in any case in which the revocation and setting aside of the order was the result of actual fraud.''

1986—Subsec. (d). Pub. L. 99–653 substituted ''one year'' for ''five years''.

1961—Subsec. (a). Pub. L. 87–301, § 18(a), inserted ''were illegally procured or'' after ''that such order and certificate of naturalization''.

Subsec. (b). Pub. L. 87–301, § 18(b), inserted ''illegally procured or'' before ''procured by concealment''.

1954—Subsec. (a). Act Sept. 3, 1954, substituted ''United States attorneys'' for ''United States district attorneys''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 23(f) of Pub. L. 99–653, as added by Pub. L. 100–525, § 8(r), Oct. 24, 1988, 102 Stat. 2619, provided that: ''The amendment made by section 17 [amending this section] shall not apply to individuals who have taken up permanent residence outside the United States before November 14, 1986.''

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.

§ 1452. Certificates of citizenship or U.S. non-citizen national status; procedure

(a) Application to Attorney General for certificate of citizenship; proof; oath of allegiance

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsection (c), (d), (e), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (c), (d), (e), or (g) of section 1401 of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 558), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139), or under the provisions of section 1403 of this title, may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States.

(b) Application to Secretary of State for certificate of non-citizen national status; proof; oath of allegiance

A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon—

(1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and

(2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this chapter of a petitioner for naturalization,

the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.

(June 27, 1952, ch. 477, title III, ch. 2, § 341, 66 Stat. 263; Pub. L. 97–116, § 18(p), Dec. 29, 1981, 95 Stat. 1621; Pub. L. 99–396, § 16(a), Aug. 27, 1986, 100 Stat. 843; Pub. L. 99–653, § 22, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, § 8(q), Oct. 24, 1988, 102 Stat. 2618; Pub. L. 102–232, title III, § 305(m)(8), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 102(b), Oct. 25, 1994, 108 Stat. 4307.)

REFERENCES IN TEXT

Section 1993 of the Revised Statutes, referred to in subsec. (a), which was classified to section 6 of this title, was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.

The Nationality Act of 1940, referred to in subsec. (a), is act Oct. 14, 1940, ch. 876, 54 Stat. 1137, as amended. Sections 201, 203, and 205 of the Nationality Act of 1940, which were classified to sections 601, 603, and 605, respectively, of this title, were repealed by section 403(a)(42) of act June 27, 1952.

Act May 7, 1934 (48 Stat. 667), referred to in subsec. (a), which was classified to sections 3b and 3c of this title, was omitted from the Code.

Act Aug. 4, 1937, referred to in subsec. (a), which was classified to sections 5d and 5e of this title, was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–416 struck out subsec. (c) which related to application to Attorney General for certificate of citizenship for adopted child.

1991—Subsec. (a). Pub. L. 102–232 substituted ''an applicant'' for ''a petitioner''.

1988—Subsec. (c). Pub. L. 100–525 amended Pub. L. 99–653. See 1986 Amendment note below.

1986—Pub. L. 99–396, § 16(a)(1), inserted reference to certificates of non-citizen national status in section catchline.

Subsecs. (a), (b). Pub. L. 99–396, § 16(a)(2), (3), designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (c). Pub. L. 99–653, as amended by Pub. L. 100–525, added subsec. (c).

1981—Pub. L. 97–116 substituted ''(c), (d), (e), or (g) of section 1401'' for ''(3), (4), (5), or (7) of section 1401(a)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–416 effective on the first day of the first month beginning more than 120 days after Oct. 25, 1994, see section 102(d) of Pub. L. 103–416, set out as a note under section 1433 of this act.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99–653, see section 309(b)(15) of Pub. L. 102–232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, 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.

CERTIFICATES OF NON-CITIZEN NATIONAL STATUS; $35 LIMIT ON FEES FOR PROCESSING APPLICATIONS FILED BEFORE END OF FISCAL YEAR 1987

Section 16(c) of Pub. L. 99–396 provided that: ''The Secretary of State may not impose a fee exceeding $35 for the processing of an application for a certificate of non-citizen national status under section 341(b) of the Immigration and Nationality Act [8 U.S.C. 1452(b)] filed before the end of fiscal year 1987.''

§ 1453. Cancellation of certificates issued by Attorney General, the Commissioner or a Deputy Commissioner; action not to affect citizenship status

The Attorney General is authorized to cancel any certificate of citizenship, certificate of naturalization, copy of a declaration of intention, or other certificate, document or record heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General if it shall appear to the Attorney General's satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him or the Commissioner or a Deputy Commissioner; but the person for or to whom such document or record has been issued or made shall be given at such person's last-known place of address written notice of the intention to cancel such document or record with the reasons therefor and shall be given at least sixty days in which to show cause why such document or record should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

(June 27, 1952, ch. 477, title III, ch. 2, § 342, 66 Stat. 263.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, 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.

§ 1454. Documents and copies issued by Attorney General

(a) If any certificate of naturalization or citizenship issued to any citizen or any declaration of intention furnished to any declarant is lost, mutilated, or destroyed, the citizen or declarant may make application to the Attorney General for a new certificate or declaration. If the Attorney General finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who shall have, or may come into possession of it is required to surrender it to the Attorney General.

(b) The Attorney General shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign state. Such certificate when issued shall be furnished to the Secretary of State for transmission to the proper authority in such foreign state.

(c) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Attorney General finds the name of the applicant to have been changed as claimed, the Attorney General shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(d) The Attorney General is authorized to make and issue certifications of any part of the naturalization records of any court, or of any certificate of naturalization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court.

(June 27, 1952, ch. 477, title III, ch. 2, § 343, 66 Stat. 263; Pub. L. 100–525, § 9(ee), Oct. 24, 1988, 102 Stat. 2621.)

AMENDMENTS

1988—Pub. L. 100–525 redesignated subsecs. (b) to (e) as (a) to (d), respectively, and struck out former subsec. (a) which read as follows: ''A person who claims to have been naturalized in the United States under section 323 of the Nationality Act of 1940 may make application to the Attorney General for a certificate of naturalization. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen and that he has been naturalized as claimed in the application, such individual shall be furnished a certificate of naturalization by the Attorney General, but only if the applicant is at the time within the United States.''

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.

§ 1455. Fiscal provisions

(a) The Attorney General shall charge, collect, and account for fees prescribed by the Attorney General pursuant to section 9701 of title 31 for the following:

(1) Making, filing, and docketing an application for naturalization, including the hearing on such application, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the Attorney General.

(2) Receiving and filing a declaration of intention, and issuing a duplicate thereof.

(b) Notwithstanding the provisions of this chapter or any other law, no fee shall be charged

or collected for an application for declaration of intention or a certificate of naturalization in lieu of a declaration or a certificate alleged to have been lost, mutilated, or destroyed, submitted by a person who was a member of the military or naval forces of the United States at any time after April 20, 1898, and before July 5, 1902; or at any time after April 5, 1917, and before November 12, 1918; or who served on the Mexican border as a member of the Regular Army or National Guard between June 1916 and April 1917; or who has served or hereafter serves in the military, air, or naval forces of the United States after September 16, 1940, and who was not at any time during such period or thereafter separated from such forces under other than honorable conditions, who was not a conscientious objector who performed no military duty whatever or refused to wear the uniform, or who was not at any time during such period or thereafter discharged from such military, air, or naval forces on account of alienage.

(c) Except as provided by section 1356(q)(2) of this title or any other law, all fees collected by the Attorney General shall be deposited by the Attorney General in the Treasury of the United States except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 1356(m) of this title: *Provided, however*, That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States, and in Guam, under this subchapter, shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam, respectively.

(d) During the time when the United States is at war the Attorney General may not charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing an application for naturalization or issuing a certificate of naturalization upon admission to citizenship.

(e) In addition to the other fees required by this subchapter, the applicant for naturalization shall, upon the filing of an application for naturalization, deposit with and pay to the Attorney General a sum of money sufficient to cover the expenses of subpenaing and paying the legal fees of any witnesses for whom such applicant may request a subpena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the Attorney General, the customary and usual witness fees from the moneys which the applicant shall have paid to the Attorney General for such purpose, and the residue, if any, shall be returned by the Attorney General to the applicant.

(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this subchapter a specified percentage of all fees described in subsection (a)(1) of this section collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.

(June 27, 1952, ch. 477, title III, ch. 2, § 344, 66 Stat. 264; Pub. L. 85–508, § 26, July 7, 1958, 72 Stat. 351; Pub. L. 90–609, § 3, Oct. 21, 1968, 82 Stat. 1200; Pub. L. 97–116, § 16, Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100–459, title II, § 209(b), Oct. 1, 1988, 102 Stat. 2203; Pub. L. 100–525, § 9(ff), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(c)(20), (d)(19), Nov. 29, 1990, 104 Stat. 5041, 5046; Pub. L. 102–232, title I, § 102(b)(3), title III, §§ 305(*l*), 309(a)(1)(A)(ii), (b)(14), Dec. 12, 1991, 105 Stat. 1736, 1750, 1758, 1759; Pub. L. 107–273, div. C, title I, § 11016(1), Nov. 2, 2002, 116 Stat. 1824.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–273 substituted ''Except as provided by section 1356(q)(2) of this title or any other law, all'' for ''All''.

1991—Subsec. (a). Pub. L. 102–232, § 305(*l*), made technical correction to Pub. L. 101–649, § 407(d)(19)(A)(i). See 1990 Amendment note below.

Subsec. (c). Pub. L. 102–232, § 309(b)(14), which provided for a clarifying amendment to subsec. (c), could not be executed, because the phrase which was to be amended did not appear after the amendment by Pub. L. 102–232, § 309(a)(1)(A)(ii), see below.

Pub. L. 102–232, § 309(a)(1)(A)(ii), amended Pub. L. 100–459. See 1988 Amendment note for subsec. (g) below.

Subsec. (f). Pub. L. 102–232, § 102(b)(3), added subsec. (f).

1990—Subsec. (a). Pub. L. 101–649, § 407(d)(19)(A)(i), as amended by Pub. L. 102–232, § 305(*l*), substituted ''The Attorney General'' for ''The clerk of court''.

Subsec. (a)(1). Pub. L. 101–649, § 407(c)(20), (d)(19)(A)(ii), (iii), substituted ''an application'' for ''a petition'' and ''application'' for ''petition'', struck out ''final'' before ''hearing'', and substituted ''the Attorney General'' for ''the naturalization court''.

Subsec. (c). Pub. L. 101–649, § 407(d)(19)(B), (C), (F), redesignated subsec. (g) as (c), struck out '', and all fees paid over to the Attorney General by clerks of courts under the provisions of this subchapter,'' before ''shall be deposited by'' and ''or by the clerks of the courts'' before ''from applicants residing in'', and struck out former subsec. (c) which read as follows: ''The clerk of any naturalization court specified in subsection (a) of section 1421 of this title (except the courts specified in subsection (d) of this section) shall account for and pay over to the Attorney General one-half of all fees up to the sum of $40,000, and all fees in excess of $40,000, collected by any such clerk in naturalization proceedings in any fiscal year.''

Subsec. (d). Pub. L. 101–649, § 407(c)(20), (d)(19)(B), (D), (F), redesignated subsec. (h) as (d), substituted ''the Attorney General may not'' for ''no clerk of a United States court shall'' and ''an application'' for ''a petition'', struck out before period at end '', and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this subsection shall be made to the Attorney General as in the case of other reports required of clerks of courts by this subchapter'' and struck out former subsec. (d) which read as follows: ''The clerk of any United States district court (except in the District Court of the Virgin Islands of the United States and in the District Court of Guam) shall account for and pay over to the Attorney General all fees collected by any such clerk in naturalization proceedings: *Provided, however*, That the clerk of the District Court of the Virgin

Islands of the United States and of the District Court of Guam shall report but shall not be required to pay over to the Attorney General the fees collected by any such clerk in naturalization proceedings.''

Subsec. (e). Pub. L. 101–649, § 407(c)(20), (d)(19)(B), (E), (F), redesignated subsec. (i) as (e), substituted ''an application'' for ''a petition'' and ''applicant'' for ''petitioner'' wherever appearing, substituted references to Attorney General for references to clerk of court wherever appearing, and struck out former subsec. (e) which read as follows: ''The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Attorney General by such respective clerks in their quarterly accounts which they are required to render to the Attorney General within thirty days from the close of each quarter of each and every fiscal year, in accordance with regulations prescribed by the Attorney General.''

Subsec. (f). Pub. L. 101–649, § 407(d)(19)(B), struck out subsec. (f) which read as follows: ''The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this subchapter upon clerks of courts from fees retained under the provisions of this section by such clerks in naturalization proceedings.''

Subsecs. (g) to (i). Pub. L. 101–649, § 407(d)(19)(F), redesignated subsecs. (g) to (i) as (c) to (e), respectively.

1988—Subsec. (a). Pub. L. 100–525 substituted ''section 9701 of title 31'' for ''title V of the Independent Offices Appropriation Act, 1952 (65 Stat. 290)'' in introductory provisions.

Subsec. (g). Pub. L. 100–459, as amended by Pub. L. 102–232, § 309(a)(1)(A)(ii), inserted ''except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 1356(m) of this title'' after ''Treasury of the United States''.

1981—Subsec. (c). Pub. L. 97–116 substituted ''$40,000'' for ''$6,000'' in two places.

1968—Subsec. (a). Pub. L. 90–609 inserted reference to section 483a of title 31 and substituted provisions making reference to setting of fees by Attorney General for provisions establishing fees of $10 and $5 respectively for covered services.

Subsec. (b). Pub. L. 90–609 struck out provisions setting fixed dollar amounts for specified services to be charged, collected, and accounted for by Attorney General.

Subsec. (g). Pub. L. 90–609 substituted fees received under this subchapter for fees received under subsec. (b) of this section as description of fees received from applicants residing in the Virgin Islands of the United States and in Guam which are turned over to the treasury of the Virgin Islands and Guam respectively.

1958—Subsec. (d). Pub. L. 85–508 struck out ''in Alaska and'' before ''in the District Court of the Virgin Islands''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 102(b)(3) of Pub. L. 102–232 effective 30 days after Dec. 12, 1991, see section 102(c) of Pub. L. 102–232, set out as a note under section 1421 of this title.

Amendment by section 305(*l*) of Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

Amendment by section 309(a)(1)(A)(ii) of Pub. L. 102–232 effective as if included in the enactment of the Department of Justice Appropriations Act, 1989, Pub. L. 100–459, title II, see section 309(a)(3) of Pub. L. 102–232, as amended, set out as a note under section 1356 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 applicable to fiscal years beginning on or after Oct. 1, 1981, see section 21(b)(2) of Pub. L. 97–116, 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.

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85–508 was dependent on admission of Alaska into the Union under section 8(b) of Pub. L. 85–508. Admission was accomplished Jan. 3, 1959 on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508. See notes preceding former section 21 of Title 48, Territories and Insular Possessions.

§ 1456. Repealed. Pub. L. 86–682, § 12(c), Sept. 2, 1960, 74 Stat. 708, eff. Sept. 1, 1960

Section, act June 27, 1952, ch. 477, title III, ch. 2, § 345, 66 Stat. 266, related to free transmittal of official mail in naturalization matters. See section 3202 of Title 39, Postal Service.

§ 1457. Publication and distribution of citizenship textbooks; use of naturalization fees

Authorization is granted for the publication and distribution of the citizenship textbook described in subsection (b) of section 1443 of this title and for the reimbursement of the appropriation of the Department of Justice upon the records of the Treasury Department from the naturalization fees deposited in the Treasury through the Service for the cost of such publication and distribution, such reimbursement to be made upon statements by the Attorney General of books so published and distributed.

(June 27, 1952, ch. 477, title III, ch. 2, § 346, 66 Stat. 266.)

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.

§ 1458. Compilation of naturalization statistics and payment for equipment

The Attorney General is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign-born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation for the enforcement of this chapter by the Service.

(June 27, 1952, ch. 477, title III, ch. 2, § 347, 66 Stat. 266.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, 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.

§ 1459. Repealed. Pub. L. 101–649, title IV, § 407(d)(20), Nov. 29, 1990, 104 Stat. 5046

Section, acts June 27, 1952, ch. 477, title III, ch. 2, § 348, 66 Stat. 267; Oct. 24, 1988, Pub. L. 100–525, § 9(gg), 102 Stat. 2622, related to admissibility in evidence of statements voluntarily made to officers and employees in course of their official duties and penalties for failure of clerk of court to perform duties.

PART III—LOSS OF NATIONALITY

§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions

(a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality—

(1) obtaining naturalization in a foreign state upon his own application or upon an application filed by a duly authorized agent, after having attained the age of eighteen years; or

(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof, after having attained the age of eighteen years; or

(3) entering, or serving in, the armed forces of a foreign state if (A) such armed forces are engaged in hostilities against the United States, or (B) such persons serve as a commissioned or non-commissioned officer; or

(4)(A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years if he has or acquires the nationality of such foreign state; or (B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(6) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or

(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, or willfully performing any act in violation of section 2385 of title 18, or violating section 2384 of title 18 by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

(b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after September 26, 1961 under, or by virtue of, the provisions of this chapter or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this chapter or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.

(June 27, 1952, ch. 477, title III, ch. 3, § 349, 66 Stat. 267; Sept. 3, 1954, ch. 1256, § 2, 68 Stat. 1146; Pub. L. 87–301, § 19, Sept. 26, 1961, 75 Stat. 656; Pub. L. 94–412, title V, § 501(a), Sept. 14, 1976, 90 Stat. 1258; Pub. L. 95–432, §§ 2, 4, Oct. 10, 1978, 92 Stat. 1046; Pub. L. 97–116, § 18(k)(2), (q), Dec. 29, 1981, 95 Stat. 1620, 1621; Pub. L. 99–653, §§ 18, 19, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, §§ 8(m), (n), 9(hh), Oct. 24, 1988, 102 Stat. 2618, 2622.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a), is the 180th day immediately following June 27, 1952. See section 407 of act June 27, 1952, set out as an Effective Date note under section 1101 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–525, § 9(hh), substituted ''A person'' for ''From and after the effective date of this chapter a person''.

Subsecs. (a) to (c). Pub. L. 100–525, § 8(m), (n), amended Pub. L. 99–653. See 1986 Amendment notes below.

1986—Subsec. (a). Pub. L. 99–653, § 18(a), as amended by Pub. L. 100–525, § 8(m)(1), inserted ''voluntarily performing any of the following acts with the intention of relinquishing United States nationality'' after ''his nationality by''.

Subsec. (a)(1). Pub. L. 99–653, § 18(b), substituted ''or upon an application filed by a duly authorized agent, after having attained the age of eighteen years'' for ''upon an application filed in his behalf by a parent, guardian, or duly authorized agent, or through the naturalization of a parent having legal custody of such person: *Provided* That nationality shall not be lost by any person under this section as the result of the naturalization of a parent or parents while such person is under the age of twenty-one years, or as the result of a naturalization obtained on behalf of a person under twenty-one years of age by a parent, guardian, or duly authorized agent, unless such person shall fail to enter the United States to establish a permanent residence prior to his twenty-fifth birthday: *And provided further*, That a person who shall have lost nationality prior to January 1, 1948, through the naturalization in a foreign state of a parent or parents, may, within one year from the effective date of this chapter, apply for a visa and for admission to the United States as a special immigrant under the provisions of section 1101(a)(27)(E) of this title''.

Subsec. (a)(2). Pub. L. 99–653, § 18(c), inserted '', after having attained the age of eighteen years'' after ''political subdivision thereof''.