''(c) APPLICATION OF CERTAIN PROVISIONS.—

''(1) IN GENERAL.—Except as provided in this subsection, the provisions of section 244 of the Immigration and Nationality Act [8 U.S.C. 1254a] (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under such section.

''(2) PROVISIONS NOT APPLICABLE.—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (i) of such section 244 shall not apply under this section.

''(3) 6-MONTH PERIOD OF REGISTRATION AND WORK AUTHORIZATION.—Notwithstanding section 244(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244(c)(3)(C) of such Act under this section, 'semiannually, at the end of each 6-month period' shall be substituted for 'annually, at the end of each 12-month period' and, notwithstanding section 244(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

''(4) REENTRY PERMITTED AFTER DEPARTURE FOR EMERGENCY CIRCUMSTANCES.—In applying section 244(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

''(d) ENFORCEMENT OF REQUIREMENT TO DEPART AT TIME OF TERMINATION OF DESIGNATION.—

''(1) SHOW CAUSE ORDER AT TIME OF FINAL REGISTRATION.—At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244(b) of the Immigration and Nationality Act [8 U.S.C. 1254a], the Service shall cancel such orders.

''(2) SANCTION FOR FAILURE TO APPEAR.—If an alien is provided an order to show cause under paragraph (1) and fails to appear at such proceedings, except for exceptional circumstances, the alien may be deported in absentia under section 240(b)(5) of the Immigration and Nationality Act [8 U.S.C. 1229a(b)(5)] (inserted by section 545(a) of this Act) and certain discretionary forms of relief are no longer available to the alien pursuant to such section.''

§ 1254b. Collection of fees under temporary protected status program

(a) In addition to collection of registration fees described in section 1254a(c)(1)(B) of this title, fees for fingerprinting services, biometric services, and other necessary services may be collected when administering the program described in section 1254a of this title.

(b) Subsection (a) shall be construed to apply for fiscal year 1998 and each fiscal year thereafter.

(Pub. L. 111–83, title V, § 549, Oct. 28, 2009, 123 Stat. 2177.)

CODIFICATION

This section was enacted as part of the Department of Homeland Security Appropriations Act, 2010, and not as part of the Immigration and Nationality Act which comprises this chapter.

§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence

(a) Status as person admitted for permanent residence on application and eligibility for immigrant visa

The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification as a VAWA self-petitioner may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

(b) Record of lawful admission for permanent residence; reduction of preference visas

Upon the approval of an application for adjustment made under subsection (a) of this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference visas authorized to be issued under sections 1152 and 1153 of this title within the class to which the alien is chargeable for the fiscal year then current.

(c) Alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa

Other than an alien having an approved petition for classification as a VAWA self-petitioner, subsection (a) of this section shall not be applicable to (1) an alien crewman; (2) subject to subsection (k) of this section, an alien (other than an immediate relative as defined in section 1151(b) of this title or a special immigrant described in section 1101(a)(27)(H), (I), (J), or (K) of this title) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status or who is in unlawful immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States; (3) any alien admitted in transit without visa under section 1182(d)(4)(C) of this title; (4) an alien (other than an immediate relative as defined in section 1151(b) of this title) who was admitted as a nonimmigrant visitor without a visa under section 1182(*l*) of this title or section 1187 of this title; (5) an alien who was admitted as a nonimmigrant described in section 1101(a)(15)(S) of this title,[1] (6) an alien who is deportable under section 1227(a)(4)(B) of this title; (7) any alien who seeks adjustment of status to that of an immigrant under section 1153(b) of this title and is not in a lawful nonimmigrant status; or (8) any alien who was em-

[1] So in original. The comma probably should be a semicolon.

ployed while the alien was an unauthorized alien, as defined in section 1324a(h)(3) of this title, or who has otherwise violated the terms of a nonimmigrant visa.

(d) Alien admitted for permanent residence on conditional basis; fiancee or fiance of citizen

The Attorney General may not adjust, under subsection (a) of this section, the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 1186a of this title. The Attorney General may not adjust, under subsection (a) of this section, the status of a nonimmigrant alien described in section 1101(a)(15)(K) of this title except to that of an alien lawfully admitted to the United States on a conditional basis under section 1186a of this title as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the parent) to the citizen who filed the petition to accord that alien's nonimmigrant status under section 1101(a)(15)(K) of this title.

(e) Restriction on adjustment of status based on marriages entered while in admissibility or deportation proceedings; bona fide marriage exception

(1) Except as provided in paragraph (3), an alien who is seeking to receive an immigrant visa on the basis of a marriage which was entered into during the period described in paragraph (2) may not have the alien's status adjusted under subsection (a) of this section.

(2) The period described in this paragraph is the period during which administrative or judicial proceedings are pending regarding the alien's right to be admitted or remain in the United States.

(3) Paragraph (1) and section 1154(g) of this title shall not apply with respect to a marriage if the alien establishes by clear and convincing evidence to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 1154(a) of this title or subsection (d) or (p)[2] of section 1184 of this title with respect to the alien spouse or alien son or daughter. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.

(f) Limitation on adjustment of status

The Attorney General may not adjust, under subsection (a) of this section, the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 1186b of this title.

(g) Special immigrants

In applying this section to a special immigrant described in section 1101(a)(27)(K) of this title, such an immigrant shall be deemed, for purposes of subsection (a) of this section, to have been paroled into the United States.

(h) Application with respect to special immigrants

In applying this section to a special immigrant described in section 1101(a)(27)(J) of this title—

(1) such an immigrant shall be deemed, for purposes of subsection (a) of this section, to have been paroled into the United States; and

(2) in determining the alien's admissibility as an immigrant—

(A) paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A), and (9)(B) of section 1182(a) of this title shall not apply; and

(B) the Attorney General may waive other paragraphs of section 1182(a) of this title (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), and (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 1101(a)(27)(J) of this title shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.

(i) Adjustment in status of certain aliens physically present in United States

(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States—

(A) who—

(i) entered the United States without inspection; or

(ii) is within one of the classes enumerated in subsection (c) of this section;

(B) who is the beneficiary (including a spouse or child of the principal alien, if eligible to receive a visa under section 1153(d) of this title) of—

(i) a petition for classification under section 1154 of this title that was filed with the Attorney General on or before April 30, 2001; or

(ii) an application for a labor certification under section 1182(a)(5)(A) of this title that was filed pursuant to the regulations of the Secretary of Labor on or before such date; and

(C) who, in the case of a beneficiary of a petition for classification, or an application for labor certification, described in subparagraph (B) that was filed after January 14, 1998, is physically present in the United States on December 21, 2000;

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General may accept such application only if the alien remits with such application a

[2] See References in Text note below.

sum equalling $1,000 as of the date of receipt of the application, but such sum shall not be required from a child under the age of seventeen, or an alien who is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 1160 or 1255a of this title or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

(i) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 1160 or 1255a of this title or section 202 of the Immigration Reform and Control Act of 1986;

(ii) entered the United States before May 5, 1988, resided in the United States on May 5, 1988, and is not a lawful permanent resident; and

(iii) applied for benefits under section 301(a) of the Immigration Act of 1990. The sum specified herein shall be in addition to the fee normally required for the processing of an application under this section.

(2) Upon receipt of such an application and the sum hereby required, the Attorney General may adjust the status of the alien to that of an alien lawfully admitted for permanent residence if—

(A) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence; and

(B) an immigrant visa is immediately available to the alien at the time the application is filed.

(3)(A) The portion of each application fee (not to exceed $200) that the Attorney General determines is required to process an application under this section and is remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in subsections (m), (n), and (*o*) of section 1356 of this title.

(B) Any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Breached Bond/Detention Fund established under section 1356(r) of this title, except that in the case of fees attributable to applications for a beneficiary with respect to whom a petition for classification, or an application for labor certification, described in paragraph (1)(B) was filed after January 14, 1998, one-half of such remaining portion shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 1356(m) of this title.

(j) Adjustment to permanent resident status

(1) If, in the opinion of the Attorney General—

(A) a nonimmigrant admitted into the United States under section 1101(a)(15)(S)(i) of this title has supplied information described in subclause (I) of such section; and

(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 1182(a)(3)(E) of this title.

(2) If, in the sole discretion of the Attorney General—

(A) a nonimmigrant admitted into the United States under section 1101(a)(15)(S)(ii) of this title has supplied information described in subclause (I) of such section, and

(B) the provision of such information has substantially contributed to—

(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

(C) the nonimmigrant has received a reward under section 2708(a) of title 22,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 1182(a)(3)(E) of this title.

(3) Upon the approval of adjustment of status under paragraph (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 1151(d) and 1153(b)(4) of this title for the fiscal year then current.

(k) Inapplicability of certain provisions for certain employment-based immigrants

An alien who is eligible to receive an immigrant visa under paragraph (1), (2), or (3) of section 1153(b) of this title (or, in the case of an alien who is an immigrant described in section 1101(a)(27)(C) of this title, under section 1153(b)(4) of this title) may adjust status pursuant to subsection (a) of this section and notwithstanding subsection (c)(2), (c)(7), and (c)(8) of this section, if—

(1) the alien, on the date of filing an application for adjustment of status, is present in the United States pursuant to a lawful admission;

(2) the alien, subsequent to such lawful admission has not, for an aggregate period exceeding 180 days—

(A) failed to maintain, continuously, a lawful status;

(B) engaged in unauthorized employment; or

(C) otherwise violated the terms and conditions of the alien's admission.

***(l)* Adjustment of status for victims of trafficking**

(1) If, in the opinion of the Secretary of Homeland Security, or in the case of subparagraph (C)(i), in the opinion of the Secretary of Homeland Security, in consultation with the Attorney General, as appropriate[3] a nonimmigrant admitted into the United States under section 1101(a)(15)(T)(i) of this title—

(A) has been physically present in the United States for a continuous period of at least 3

[3] So in original. Probably should be followed by a comma.

years since the date of admission as a nonimmigrant under section 1101(a)(15)(T)(i) of this title, or has been physically present in the United States for a continuous period during the investigation or prosecution of acts of trafficking and that, in the opinion of the Attorney General, the investigation or prosecution is complete, whichever period of time is less;

(B) subject to paragraph (6), has, throughout such period, been a person of good moral character; and

(C)(i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking;

(ii) the alien[4] would suffer extreme hardship involving unusual and severe harm upon removal from the United States; or

(iii) was younger than 18 years of age at the time of the victimization qualifying the alien for relief under section 1101(a)(15)(T) of this title.[5]

the Secretary of Homeland Security may adjust the status of the alien (and any person admitted under section 1101(a)(15)(T)(ii) of this title as the spouse, parent, sibling, or child of the alien) to that of an alien lawfully admitted for permanent residence.

(2) Paragraph (1) shall not apply to an alien admitted under section 1101(a)(15)(T) of this title who is inadmissible to the United States by reason of a ground that has not been waived under section 1182 of this title, except that, if the Secretary of Homeland Security considers it to be in the national interest to do so, the Secretary of Homeland Security, in the Attorney General's[6] discretion, may waive the application of—

(A) paragraphs (1) and (4) of section 1182(a) of this title; and

(B) any other provision of such section (excluding paragraphs (3), (10)(C), and (10(E)),[7] if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 1101(a)(15)(T)(i)(I) of this title.

(3) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days, unless—

(A) the absence was necessary to assist in the investigation or prosecution described in paragraph (1)(A); or

(B) an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

(4)(A) The total number of aliens whose status may be adjusted under paragraph (1) during any fiscal year may not exceed 5,000.

(B) The numerical limitation of subparagraph (A) shall only apply to principal aliens and not to the spouses, sons, daughters, siblings, or parents of such aliens.

(5) Upon the approval of adjustment of status under paragraph (1), the Secretary of Homeland Security shall record the alien's lawful admission for permanent residence as of the date of such approval.

(6) For purposes of paragraph (1)(B), the Secretary of Homeland Security may waive consideration of a disqualification from good moral character with respect to an alien if the disqualification was caused by, or incident to, the trafficking described in section 1101(a)(15)(T)(i)(I) of this title.

(7) The Secretary of Homeland Security shall permit aliens to apply for a waiver of any fees associated with filing an application for relief through final adjudication of the adjustment of status for a VAWA self-petitioner and for relief under sections 1101(a)(15)(T), 1101(a)(15)(U), 1105a, 1229b(b)(2), and 1254a(a)(3) of this title (as in effect on March 31, 1997).

(m) Adjustment of status for victims of crimes against women

(1) The Secretary of Homeland Security may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 1101(a)(15)(U) of this title to that of an alien lawfully admitted for permanent residence if the alien is not described in section 1182(a)(3)(E) of this title, unless the Secretary determines based on affirmative evidence that the alien unreasonably refused to provide assistance in a criminal investigation or prosecution, if—

(A) the alien has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under clause (i) or (ii) of section 1101(a)(15)(U) of this title; and

(B) in the opinion of the Secretary of Homeland Security, the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

(3) Upon approval of adjustment of status under paragraph (1) of an alien described in section 1101(a)(15)(U)(i) of this title the Secretary of Homeland Security may adjust the status of or issue an immigrant visa to a spouse, a child, or, in the case of an alien child, a parent who did not receive a nonimmigrant visa under section 1101(a)(15)(U)(ii) of this title if the Secretary considers the grant of such status or visa necessary to avoid extreme hardship.

(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Secretary of Homeland Security shall record the alien's lawful admission for permanent residence as of the date of such approval.

[4] So in original. The words ''the alien'' probably should not appear.

[5] So in original. The period probably should be a comma.

[6] So in original. Probably should be ''Secretary's''.

[7] So in original. Probably should be ''(10)(E)),''.

(5)(A) The Secretary of Homeland Security shall consult with the Attorney General, as appropriate, in making a determination under paragraph (1) whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a Federal law enforcement official, Federal prosecutor, Federal judge, or other Federal authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(iii) of this title.

(B) Nothing in paragraph (1)(B) may be construed to prevent the Secretary from consulting with the Attorney General in making a determination whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a State or local law enforcement official, State or local prosecutor, State or local judge, or other State or local authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(iii) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, §245, 66 Stat. 217; Pub. L. 85–700, §1, Aug. 21, 1958, 72 Stat. 699; Pub. L. 86–648, §10, July 14, 1960, 74 Stat. 505; Pub. L. 89–236, §13, Oct. 3, 1965, 79 Stat. 918; Pub. L. 94–571, §6, Oct. 20, 1976, 90 Stat. 2705; Pub. L. 97–116, §5(d)(2), Dec. 29, 1981, 95 Stat. 1614; Pub. L. 99–603, title I, §117, title III, §313(c), Nov. 6, 1986, 100 Stat. 3384, 3438; Pub. L. 99–639, §§2(e), 3(b), 5(a), Nov. 10, 1986, 100 Stat. 3542, 3543; Pub. L. 100–525, §§2(f)(1), (p)(3), 7(b), Oct. 24, 1988, 102 Stat. 2611, 2613, 2616; Pub. L. 101–649, title I, §§121(b)(4), 162(e)(3), title VII, §702(a), Nov. 29, 1990, 104 Stat. 5011, 5086; Pub. L. 102–110, §2(c), Oct. 1, 1991, 105 Stat. 556; Pub. L. 102–232, title III, §§302(d)(2), (e)(7), 308(a), Dec. 12, 1991, 105 Stat. 1744, 1746, 1757; Pub. L. 103–317, title V, §506(b), Aug. 26, 1994, 108 Stat. 1765; Pub. L. 103–322, title XIII, §130003(c), Sept. 13, 1994, 108 Stat. 2025; Pub. L. 103–416, title II, §219(k), Oct. 25, 1994, 108 Stat. 4317; Pub. L. 104–132, title IV, §413(d), Apr. 24, 1996, 110 Stat. 1269; Pub. L. 104–208, div. C, title III, §§308(f)(1)(O), (2)(C), (g)(10)(B), 375, 376(a), title VI, §671(a)(4)(A), (5), Sept. 30, 1996, 110 Stat. 3009–621, 3009–625, 3009–648, 3009–721; Pub. L. 105–119, title I, §§110(3), 111(a), (c), Nov. 26, 1997, 111 Stat. 2458; Pub. L. 106–386, div. A, §107(f), div. B, title V, §§1506(a)(1), 1513(f), Oct. 28, 2000, 114 Stat. 1479, 1527, 1536; Pub. L. 106–553, §1(a)(2) [title XI, §§1102(c), (d)(2), 1103(c)(3)], Dec. 21, 2000, 114 Stat. 2762, 2762A–143 to 2762A–145; Pub. L. 106–554, §1(a)(4) [div. B, title XV, §1502], Dec. 21, 2000, 114 Stat. 2763, 2763A–324; Pub. L. 108–193, §§4(b)(3), 8(a)(4), Dec. 19, 2003, 117 Stat. 2879, 2886; Pub. L. 109–162, title VIII, §803, Jan. 5, 2006, 119 Stat. 3054; Pub. L. 109–271, §6(f), Aug. 12, 2006, 120 Stat. 763; Pub. L. 110–457, title II, §§201(d), (e), 235(d)(3), Dec. 23, 2008, 122 Stat. 5053, 5054, 5080.)

REFERENCES IN TEXT

Subsection (p) of section 1184 of this title, referred to in subsec. (e)(3), was redesignated subsec. (r) of section 1184 by Pub. L. 108–193, §8(a)(3), Dec. 19, 2003, 117 Stat. 2886.

Section 202 of the Immigration Reform and Control Act of 1986, referred to in subsec. (i)(1), is section 202 of Pub. L. 99–603, which is set out as a note under section 1255a of this title.

Section 301 of the Immigration Act of 1990, referred to in subsec. (i)(1)(iii), is section 301 of Pub. L. 101–649, which is set out as a note under section 1255a of this title.

AMENDMENTS

2008—Subsec. (h)(2)(A). Pub. L. 110–457, §235(d)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''paragraphs (4), (5)(A), and (7)(A) of section 1182(a) of this title shall not apply, and''.

Subsec. (*l*)(1). Pub. L. 110–457, §201(d)(1)(C)(ii), which directed amendment of subpar. (C)(ii) by striking out '', or in the case of subparagraph (C)(i), the Attorney General, as appropriate'', was executed by striking out '', or in the case of subparagraph (C)(i), the Attorney General,'' before ''may adjust'' in concluding provisions of par. (1), to reflect the probable intent of Congress.

Pub. L. 110–457, §201(d)(1)(A), substituted ''in the opinion of the Secretary of Homeland Security, in consultation with the Attorney General, as appropriate'' for ''the Attorney General,,'' in introductory provisions.

Subsec. (*l*)(1)(B). Pub. L. 110–457, §201(d)(1)(B), inserted ''subject to paragraph (6),'' after subpar. designation and substituted ''; and'' for '', and''.

Subsec. (*l*)(1)(C)(i). Pub. L. 110–457, §201(d)(1)(C)(i), substituted semicolon for '', or''.

Subsec. (*l*)(1)(C)(ii), (iii). Pub. L. 110–457, §201(d)(1)(C)(iii), which directed amendment of subpar. (C) by substituting ''; or'' for period at end and adding cl. (iii), was executed by making the substitution for comma at end of cl. (ii) and adding cl. (iii), to reflect the probable intent of Congress.

Subsec. (*l*)(3). Pub. L. 110–457, §201(d)(2), substituted '', unless—'' for period at end and added subpars. (A) and (B).

Subsec. (*l*)(6), (7). Pub. L. 110–457, §201(d)(3), added pars. (6) and (7).

Subsec. (m)(1). Pub. L. 110–457, §201(e)(1), substituted ''unless the Secretary'' for ''unless the Attorney General'' in introductory provisions.

Subsec. (m)(5). Pub. L. 110–457, §201(e)(2), added par. (5).

2006—Subsec. (a). Pub. L. 109–271, §6(f)(1), substituted ''as a VAWA self-petitioner'' for ''under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 1154(a)(1) of this title or''.

Subsec. (c). Pub. L. 109–271, §6(f)(2), substituted ''as a VAWA self-petitioner'' for ''under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 1154(a)(1) of this title''.

Subsec. (*l*)(1). Pub. L. 109–162, §803(a)(1)(A), substituted ''Secretary of Homeland Security, or in the case of subparagraph (C)(i), the Attorney General,'' for ''Attorney General'' in two places.

Subsec. (*l*)(1)(A), Pub. L. 109–162, §803(a)(1)(B), inserted at end ''or has been physically present in the United States for a continuous period during the investigation or prosecution of acts of trafficking and that, in the opinion of the Attorney General, the investigation or prosecution is complete, whichever period of time is less;''.

Subsec. (*l*)(2). Pub. L. 109–162, §803(a)(2), substituted ''Secretary of Homeland Security'' for ''Attorney General'' in two places.

Subsec. (*l*)(5). Pub. L. 109–162, §803(a)(3), substituted ''Secretary of Homeland Security'' for ''Attorney General''.

Subsec. (m)(1). Pub. L. 109–162, §803(b)(1)(A), substituted ''Secretary of Homeland Security may adjust'' for ''Attorney General may adjust'' in introductory provisions.

Subsec. (m)(1)(B). Pub. L. 109–162, §803(b)(1)(B), substituted ''Secretary of Homeland Security'' for ''Attorney General''.

Subsec. (m)(3). Pub. L. 109–162, §803(b)(2), substituted ''Secretary of Homeland Security may adjust'' for ''Attorney General may adjust'' and ''Secretary considers'' for ''Attorney General considers''.

Subsec. (m)(4). Pub. L. 109–162, §803(b)(3), substituted ''Secretary of Homeland Security'' for ''Attorney General''.

2003—Subsec. (*l*). Pub. L. 108–193, §8(a)(4)(B), redesignated subsec. (*l*), relating to adjustment of status for victims of crimes against women, as (m).

Subsec. (*l*)(1). Pub. L. 108–193, § 4(b)(3)(A), in concluding provisions, substituted ''admitted under section 1101(a)(15)(T)(ii) of this title'' for ''admitted under that section'' and inserted ''sibling,'' after ''parent,''.

Subsec. (*l*)(2). Pub. L. 108–193, § 8(a)(4)(A), redesignated par. (2), relating to alien's maintenance of continuous physical presence, as (3).

Subsec. (*l*)(3). Pub. L. 108–193, § 8(a)(4)(A), redesignated par. (2), relating to alien's maintenance of continuous physical presence, as (3). Former par. (3) redesignated (4).

Subsec. (*l*)(3)(B). Pub. L. 108–193, § 4(b)(3)(B), inserted ''siblings,'' after ''daughters,''.

Subsec. (*l*)(4), (5). Pub. L. 108–193, § 8(a)(4)(A), redesignated pars. (3) and (4) as (4) and (5), respectively.

Subsec. (m). Pub. L. 108–193, § 8(a)(4)(B), redesignated subsec. (*l*), relating to adjustment of status for victims of crimes against women, as (m).

2000—Subsec. (a). Pub. L. 106–386, § 1506(a)(1)(A), which directed the insertion of ''or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 1154(a)(1) of this title or'' after ''into the United States.'', was executed by making the insertion after ''into the United States'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 106–386, § 1506(a)(1)(B), substituted ''Other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 1154(a)(1) of this title, subsection (a) of this section shall not be applicable to'' for ''Subsection (a) of this section shall not be applicable to''.

Subsec. (d). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(b)(2)], struck out ''or (m)'' after ''under subsection (a)'' in two places.

Pub. L. 106–553, § 1(a)(2) [title XI, § 1103(c)(3)(A)], struck out ''(relating to an alien fiancee or fiance or the minor child of such alien)'' before ''except to that of an alien''.

Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(d)(2)(A)], substituted ''under subsection (a) or (m) of this section,'' for ''under subsection (a) of this section,'' in two places.

Subsec. (e)(1). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(b)(2)], struck out ''or (m)'' after ''under subsection (a)''.

Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(d)(2)(B)], substituted ''subsection (a) or (m)'' for ''subsection (a)''.

Subsec. (e)(3). Pub. L. 106–553, § 1(a)(2) [title XI, § 1103(c)(3)(B)], substituted ''section 1154(a) of this title or subsection (d) or (p) of section 1184 of this title'' for ''section 1154(a) or 1184(d) of this title''.

Subsec. (f). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(b)(2)], struck out ''or (m)'' after ''under subsection (a)''.

Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(d)(2)(A)], substituted ''under subsection (a) or (m) of this section,'' for ''under subsection (a) of this section,''.

Subsec. (i)(1)(B)(i). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(a)(1)(B)], substituted ''April 30, 2001'' for ''January 14, 1998''.

Subsec. (i)(1)(C). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(a)(1)(A), (C), (D)], added subpar. (C).

Subsec. (i)(3)(B). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(a)(2)], inserted before period at end '', except that in the case of fees attributable to applications for a beneficiary with respect to whom a petition for classification, or an application for labor certification, described in paragraph (1)(B) was filed after January 14, 1998, one-half of such remaining portion shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 1356(m) of this title''.

Subsec. (*l*). Pub. L. 106–386, § 1513(f), added subsec. (*l*) relating to adjustment of status for victims of crimes against women.

Pub. L. 106–386, § 107(f), added subsec. (*l*) relating to adjustment of status for victims of trafficking.

Subsec. (m). Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1502(b)(1)], struck out subsec. (m), which related to adjustment of status of nonimmigrant described in section 1101(a)(15)(V) of this title who was determined to have been physically present in the United States at any time during period beginning July 1, 2000, and ending Oct. 1, 2000.

Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(c)], added subsec. (m).

1997—Subsec. (c)(2). Pub. L. 105–119, § 111(c)(1), substituted ''(2) subject to subsection (k) of this section, an alien (other than'' for ''(2) an alien (other than''.

Subsec. (i)(1). Pub. L. 105–119, § 111(a), substituted first sentence for prior first sentence which read as follows: ''Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

''(A) entered the United States without inspection; or

''(B) is within one of the classes enumerated in subsection (c) of this section,

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence.''

Subsec. (i)(3)(B). Pub. L. 105–119, § 110(3), substituted ''Breached Bond/Detention Fund established under section 1356(r) of this title'' for ''Immigration Detention Account established under section 1356(s) of this title''.

Subsec. (k). Pub. L. 105–119, § 111(c)(2), added subsec. (k).

1996—Subsec. (c)(6). Pub. L. 104–208, § 308(g)(10)(B), substituted ''section 1227(a)(4)(B)'' for ''section 1251(a)(4)(B)''.

Pub. L. 104–132 added cl. (6).

Subsec. (c)(7), (8). Pub. L. 104–208, § 375, added cls. (7) and (8).

Subsec. (e)(2). Pub. L. 104–208, § 308(f)(2)(C), substituted ''be admitted'' for ''enter''.

Subsec. (e)(3). Pub. L. 104–208, § 308(f)(1)(O), substituted ''admission'' for ''entry''.

Subsec. (i). Pub. L. 104–208, § 671(a)(4)(A), redesignated subsec. (i), relating to adjustment to permanent resident status, as (j).

Subsec. (i)(1). Pub. L. 104–208, § 376(a)(1), substituted ''$1,000'' for ''five times the fee required for the processing of applications under this section''.

Subsec. (i)(3). Pub. L. 104–208, § 376(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Sums remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in sections 1356(m), (n), and (*o*) of this title.''

Subsec. (j). Pub. L. 104–208, § 671(a)(4)(A), redesignated subsec. (i), relating to adjustment to permanent resident status, as (j).

Subsec. (j)(3). Pub. L. 104–208, § 671(a)(5), substituted ''paragraph (1) or (2)'' for ''paragraphs (1) or (2)''.

1994—Subsec. (c)(5). Pub. L. 103–322, § 130003(c)(2), added cl. (5).

Subsec. (h)(2)(B). Pub. L. 103–416 substituted ''and (3)(E)'' for ''or (3)(E)''.

Subsec. (i). Pub. L. 103–322, § 130003(c)(1), added subsec. (i) relating to adjustment to permanent resident status.

Pub. L. 103–317, § 506(b), added subsec. (i) relating to adjustment in status of certain aliens physically present in United States.

1991—Subsec. (b). Pub. L. 102–232, § 302(e)(7), substituted ''sections 1152 and 1153'' for ''sections 1151(a)'' and ''for the fiscal year then current'' for ''for the succeeding fiscal year''.

Subsec. (c)(2). Pub. L. 102–232, § 302(d)(2)(A), inserted ''(J),'' after ''(I),''.

Pub. L. 102–110, § 2(c)(1), substituted '', (I), or (K)'' for ''or (I)''.

Subsec. (e)(3). Pub. L. 102–232, § 308(a), substituted ''section 1154(g)'' for ''section 1154(h)''.

Subsec. (g). Pub. L. 102–110, § 2(c)(2), added subsec. (g).

Subsec. (h). Pub. L. 102–232, § 302(d)(2)(B), added subsec. (h).

1990—Subsec. (b). Pub. L. 101–649, § 162(e)(3), struck out ''or nonpreference'' after ''number of the pref-

erence'' and substituted ''1151(a)'' for ''1152(e) or 1153(a)'' and ''succeeding fiscal year'' for ''fiscal year then current''.

Subsec. (e)(1). Pub. L. 101–649, §702(a)(1), substituted ''Except as provided in paragraph (3), an alien'' for ''An alien''.

Subsec. (e)(3). Pub. L. 101–649, §702(a)(2), added par. (3).

Subsec. (f). Pub. L. 101–649, §121(b)(4), added subsec. (f).

1988—Subsec. (c)(2). Pub. L. 100–525, §2(f)(1), substituted ''1101(a)(27)(H) or (I)'' for ''1101(a)(27)(H)'', inserted ''or'' after ''no fault of his own'', and substituted ''in unlawful'' for ''not in legal'' and ''lawful status'' for ''legal status''.

Subsec. (c)(4). Pub. L. 100–525, §2(p)(3), made technical correction to Pub. L. 99–603, §313(c). See 1986 Amendment note below.

Subsec. (d). Pub. L. 100–525, §7(b), amended Pub. L. 99–639, §3(b). See 1986 Amendment note below.

1986—Subsec. (c). Pub. L. 99–639, §5(a)(1), substituted ''Subsection (a) of this section'' for ''The provisions of this section''.

Subsec. (c)(2). Pub. L. 99–603, §117, inserted ''or who is not in legal immigration status on the date of filing the application for adjustment or who has failed (other than through no fault of his own for technical reasons) to maintain continuously a legal status since entry into the United States''.

Subsec. (c)(4). Pub. L. 99–603, §313(c), as amended by Pub. L. 100–525, §2(p)(3), added cl. (4).

Subsec. (d). Pub. L. 99–639, §3(b), as amended by Pub. L. 100–525, §7(b), inserted ''The Attorney General may not adjust, under subsection (a) of this section, the status of a nonimmigrant alien described in section 1101(a)(15)(K) of this title (relating to an alien fiancee or fiance or the minor child of such alien) except to that of an alien lawfully admitted to the United States on a conditional basis under section 1186a of this title as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the parent) to the citizen who filed the petition to accord that alien's nonimmigrant status under section 1101(a)(15)(K) of this title.''

Pub. L. 99–639, §2(e), added subsec. (d).

Subsec. (e). Pub. L. 99–639, §5(a)(2), added subsec. (e).

1981—Subsec. (c)(2). Pub. L. 97–116 inserted ''or a special immigrant described in section 1101(a)(27)(H) of this title'' after ''section 1151(b) of this title''.

1976—Subsec. (a). Pub. L. 94–571 struck out '', other than alien crewman,'' after ''status of an alien'' and substituted ''filed'' for ''approved''.

Subsec. (b). Pub. L. 94–571 inserted reference to section 1152(e) of this title and struck out comma after ''chargeable''.

Subsec. (c). Pub. L. 94–571 substituted provision making the section inapplicable to alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa for provision making the section inapplicable to natives of contiguous country or adjacent island.

1965—Subsec. (b). Pub. L. 89–236, §13(a), struck out reference to quota area to which the alien is chargeable under section 1152 of this title and substituted reference to number of preference or nonpreference visas authorized to be issued under section 1153(a) of this title within the class to which the alien is chargeable.

Subsec. (c). Pub. L. 89–236, §13(b), substituted ''any country of the Western Hemisphere'' for ''any country contiguous to the United States''.

1960—Subsec. (a). Pub. L. 86–648 substituted ''alien, other than an alien crewman, who was inspected and admitted or paroled into the United States'' for ''alien who was admitted to the United States as a bona fide nonimmigrant'', struck out former cl. (3) which read ''an immigrant visa was immediately available to him at the time of his application'', redesignated cl. (4) as (3), and struck out concluding sentence which read as follows: ''A quota immigrant visa shall be considered immediately available for the purposes of this subsection only if the portion of the quota to which the alien is chargeable is undersubscribed by applicants registered on a consular waiting list.''

1958—Pub. L. 85–700 among other changes, substituted provisions allowing adjustment of status of alien who was admitted as a bona fide nonimmigrant to that of an alien lawfully admitted for permanent residence, for provisions allowing adjustment of status of alien who was lawfully admitted as a bona fide nonimmigrant and continued to maintain that status, to that of a permanent resident either as a quota immigrant or as a nonquota immigrant claiming nonquota status as the spouse or child of a citizen under certain specified conditions, by striking out provision terminating nonimmigrant quota status of alien who files application for adjustment of status, and by adding subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201 of Pub. L. 110–457 effective Dec. 23, 2008, and applicable to applications for immigration benefits filed on or after Dec. 23, 2008, see section 201(f) of Pub. L. 110–457, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–554, §1(a)(4) [div. B, title XV, §1506], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, provided that: ''This title [amending this section, enacting provisions set out as notes under this section, and amending provisions set out as notes under this section and section 1101 of this title] shall take effect as if included in the enactment of the Legal Immigration Family Equity Act [see Short Title of 2000 Amendments note set out under section 1101 of this title].''

Amendment by section 1(a)(2) [title XI, §1102(c), (d)(2)] of Pub. L. 106–553 effective Dec. 21, 2000, and applicable to an alien who is the beneficiary of a classification petition filed under section 1154 of this title on or before Dec. 21, 2000, see section 1(a)(2) [title XI, §1102(e)] of Pub. L. 106–553, set out as a note under section 1101 of this title.

Amendment by section 1(a)(2) [title XI, §1103(c)(3)] of Pub. L. 106–553 effective Dec. 21, 2000, and applicable to an alien who is the beneficiary of a classification petition filed under section 1154 of this title before, on, or after Dec. 21, 2000, see section 1(a)(2) [title XI, §1103(d)] of Pub. L. 106–553, set out as a note under section 1101 of this title.

Pub. L. 106–386, div. B, title V, §1506(a)(2), Oct. 28, 2000, 114 Stat. 1527, provided that: ''The amendments made by paragraph (1) [amending this section] shall apply to applications for adjustment of status pending on or made on or after January 14, 1998.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 308(f)(1)(O), (2)(C), (g)(10)(B) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Section 376(c) of div. C of Pub. L. 104–208 provided that: ''The amendments made by this section [amending this section and section 1356 of this title] shall apply to applications made on or after the end of the 90-day period beginning on the date of the enactment of this Act [Sept. 30, 1996].''

Amendment by section 671(a)(4)(A), (5) of Pub. L. 104–208 effective as if included in the enactment of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103–322, see section 671(a)(7) of Pub. L. 104–208, set out as a note under section 1101 of this title.

Amendment by Pub. L. 104–132 effective Apr. 24, 1996, and applicable to applications filed before, on, or after such date if final action not yet taken on them before such date see section 413(g) of Pub. L. 104–132, set out as a note under section 1253 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

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.

Amendment by Pub. L. 103–317 effective Oct. 1, 1994, see section 506(c) of Pub. L. 103–317, as amended, set out as an Effective and Termination Dates of 1994 Amendment note under section 1182 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by section 302(d)(2), (e)(7) 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 308(a) of Pub. L. 102–232 provided that the amendment made by that section is effective Oct. 1, 1991.

Amendment by Pub. L. 102–110 effective 60 days after Oct. 1, 1991, see section 2(d) of Pub. L. 102–110, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by sections 121(b)(4), 162(e)(3) of Pub. L. 101–649 effective Oct. 1, 1991, and applicable beginning with fiscal year 1992, see section 161(a) of Pub. L. 101–649, set out as a note under section 1101 of this title.

Amendment by section 702(a) of Pub. L. 101–649 applicable to marriages entered into before, on, or after Nov. 29, 1990, see section 702(c) of Pub. L. 101–649, set out as a note under section 1154 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2(f)(2) of Pub. L. 100–525 provided that: ''The amendments made by paragraph (1) [amending this section] and by section 117 of IRCA [section 117 of Pub. L. 99–603, amending this section] shall apply to applications for adjustment of status filed on or after November 6, 1986.''

Amendment by section 2(f)(1), (p)(3) of Pub. L. 100–525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99–603, see section 2(s) of Pub. L. 100–525, set out as a note under section 1101 of this title.

Amendment by section 7(b) of Pub. L. 100–525 effective as if included in enactment of Immigration Marriage Fraud Amendments of 1986, Pub. L. 99–639, see section 7(d) of Pub. L. 100–525, set out as a note under section 1182 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 3(d)(2) of Pub. L. 99–639 provided that: ''The amendment made by subsection (b) [amending this section] shall apply to adjustments occurring on or after the date of the enactment of this Act [Nov. 10, 1986].''

Amendment by section 5(a) of Pub. L. 99–639 applicable to marriages entered into on or after Nov. 10, 1986, see section 5(c) of Pub. L. 99–639, set out as a note under section 1154 of this title.

Amendment by section 117 of Pub. L. 99–603 applicable to applications for adjustment of status filed on or after Nov. 6, 1986, see section 2(f)(2) of Pub. L. 100–525, set out as an Effective Date of 1988 Amendment note above.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub. L. 94–571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89–236, see section 20 of Pub. L. 89–236, set out as a note under section 1151 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.

PERMITTING MOTION TO REOPEN

Pub. L. 106–554, §1(a)(4) [div. B, title XV, §1505(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–326, provided that: ''Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)])), a national of Cuba or Nicaragua who has become eligible for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act [see Short Title of 1997 Amendments note set out under section 1101 of this title] as a result of the amendments made by paragraph (1) [amending section 202 of Pub. L. 105–100, set out below], may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act [Dec. 21, 2000].''

Pub. L. 106–554, §1(a)(4) [div. B, title XV, §1505(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–327, provided that: ''Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)])), a national of Haiti who has become eligible for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 [see Short Title of 1998 Amendments note set out under section 1101 of this title] as a result of the amendments made by paragraph (1) [amending section 902 of section 101(h) of div. A of Pub. L. 105–277, set out below], may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act [Dec. 21, 2000].''

ADJUSTMENT OF STATUS OF CERTAIN JEWISH SYRIAN NATIONALS

Pub. L. 106–378, Oct. 27, 2000, 114 Stat. 1442, provided for adjustment of status from asylee to lawful permanent residence of not more than 2,000 persons, who must be either (1) Jewish nationals of Syria, who arrived in the United States after Dec. 31, 1991, after being permitted by the Syrian Government to depart from Syria, and were physically present in the United States at the time of filing the application for adjustment of status, or (2) who were the spouse, child, or unmarried son or daughter of such an alien provided that any such eligible person either applied for such adjustment of status not later than 1 year after Oct. 27, 2000, or applied for adjustment of status under this chapter before Oct. 27, 2000, had been physically present in the United States for at least 1 year after being granted asylum; was not firmly resettled in any foreign country; and was admissible as an immigrant under this chapter at the time of examination for adjustment of such alien.

ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS

Pub. L. 105–277, div. A, §101(h) [title IX, §902], Oct. 21, 1998, 112 Stat. 2681–480, 2681–538; as amended by Pub. L.

106–386, div. B, title V, § 1511(a), Oct. 28, 2000, 114 Stat. 1532; Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1505(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–326; Pub. L. 109–162, title VIII, § 824(a), Jan. 5, 2006, 119 Stat. 3063; Pub. L. 110–161, div. H, title I, § 1502(d), Dec. 26, 2007, 121 Stat. 2250, provided that:

''(a) ADJUSTMENT OF STATUS.—

''(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

''(A) applies for such adjustment before April 1, 2000; and

''(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply.

''(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

''(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act [8 U.S.C. 1231(a)(5)] shall not apply; and

''(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act [8 U.S.C. 1182(a)(9)].

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

''(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

''(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

''(1) was present in the United States on December 31, 1995, who—

''(A) filed for asylum before December 31, 1995,

''(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

''(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

''(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

''(ii) became orphaned subsequent to arrival in the United States, or

''(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

''(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

''(c) STAY OF REMOVAL.—

''(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

''(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

''(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an 'employment authorized' endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

''(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

''(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

''(A) the alien is a national of Haiti;

''(B)(i) the alien is the spouse, child, or unmarried son or daughter of an alien who is or was eligible for classification under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

''(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien who is or was eligible for classification under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

''(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(J) [8 U.S.C. 1154(a)(1)(J)].

''(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

''(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply.

''(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

''(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to,

and procedures for, administrative review as are provided to—

''(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act [8 U.S.C. 1255]; or

''(2) aliens subject to removal proceedings under section 240 of such Act [8 U.S.C. 1229a].

''(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

''(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

''(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title [section 101(h) [title IX] of Pub. L. 105–277, enacting sections 1377 and 1378 of this title and provisions set out as a note under section 1101 of this title], the definitions contained in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

''(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act [Oct. 21, 1998] may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

''(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.''

[Pub. L. 109–162, title VIII, § 824(b), Jan. 5, 2006, 119 Stat. 3063, provided that: ''The amendment made by subsection (a)(3) [amending section 101(h) [title IX, § 902] of div. A of Pub. L. 105–277, set out above] shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).'']

[Pub. L. 106–386, div. B, title V, § 1511(b), Oct. 28, 2000, 114 Stat. 1533, provided that: ''The amendment made by subsection (a) [amending section 101(h) [title IX, § 902] of div. A of Pub. L. 105–277, set out above] shall be effective as if included in the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277; 112 Stat. 2681–538).'']

ADJUSTMENT OF STATUS OF CERTAIN NICARAGUANS AND CUBANS

Pub. L. 105–100, title II, § 202, Nov. 19, 1997, 111 Stat. 2193, as amended by Pub. L. 105–139, § 1(a), (b), Dec. 2, 1997, 111 Stat. 2644; Pub. L. 106–386, div. B, title V, § 1510(a), Oct. 28, 2000, 114 Stat. 1531; Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1505(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–326; Pub. L. 109–162, title VIII, § 815(a), (b), Jan. 5, 2006, 119 Stat. 3060, provided that:

''(a) ADJUSTMENT OF STATUS.—

''(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

''(A) applies for such adjustment before April 1, 2000; and

''(B) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply.

''(2) RULES IN APPLYING CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

''(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act [8 U.S.C. 1231(a)(5)] shall not apply; and

''(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act [8 U.S.C. 1182(a)(9)].

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

''(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

''(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

''(1) IN GENERAL.—The benefits provided by subsection (a) shall apply to any alien who is a national of Nicaragua or Cuba and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under such subsection is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

''(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced not later than December 1, 1995, an alien—

''(A) shall demonstrate that the alien, prior to December 1, 1995—

''(i) applied to the Attorney General for asylum;

''(ii) was issued an order to show cause under section 242 or 242B of the Immigration and Nationality Act [8 U.S.C. 1252, former 1252b] (as in effect prior to April 1, 1997);

''(iii) was placed in exclusion proceedings under section 236 of such Act [8 U.S.C. 1226] (as so in effect);

''(iv) applied for adjustment of status under section 245 of such Act [8 U.S.C. 1255];

''(v) applied to the Attorney General for employment authorization;

''(vi) performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or

''(vii) applied for any other benefit under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] by means of an application establishing the

alien's presence in the United States prior to December 1, 1995; or

''(B) shall make such other demonstration of physical presence as the Attorney General may provide for by regulation.

''(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

''(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

''(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

''(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an 'employment authorized' endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

''(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

''(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

''(A) the alien is a national of Nicaragua or Cuba;

''(B) the alien—

''(i) is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for adjustment under this subsection is filed; or

''(ii) was, at the time at which an alien filed for adjustment under subsection (a), the spouse or child of an alien whose status is adjusted, or was eligible for adjustment, to that of an alien lawfully admitted for permanent residence under subsection (a), and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien that filed for adjustment under subsection (a);

''(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

''(D) the alien is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply; and

''(E) applies for such adjustment before April 1, 2000, or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women and Department of Justice Reauthorization Act of 2005 [Jan. 5, 2006].

''(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien—

''(A) shall demonstrate that such period commenced not later than December 1, 1995, in a manner consistent with subsection (b)(2); and

''(B) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period in the aggregate not exceeding 180 days.

''(3) PROCEDURE.—In acting on an application under this section with respect to a spouse or child who has been battered or subjected to extreme cruelty, the Attorney General shall apply section 204(a)(1)(J) [8 U.S.C. 1154(a)(1)(J)].

''(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

''(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act [8 U.S.C. 1255]; or

''(2) aliens subject to removal proceedings under section 240 of such Act [8 U.S.C. 1229a].

''(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

''(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

''(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.''

[Pub. L. 109–162, title VIII, § 815(c), Jan. 5, 2006, 119 Stat. 3060, provided that: ''The amendment made by subsection (b) [amending section 202(d)(3) of Pub. L. 105–100, set out above] shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).'']

ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES

Section 646 of div. C of Pub. L. 104–208 provided that:

''(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

''(1) applies for such adjustment;

''(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed;

''(3) is admissible to the United States as an immigrant, except as provided in subsection (c); and

''(4) pays a fee (determined by the Attorney General) for the processing of such application.

''(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

''(1) was a national of Poland or Hungary; and

''(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

''(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (7)(A)] shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as an alien lawfully admitted for permanent residence as of the date of the alien's inspection and parole described in subsection (b)(2).

''(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].''

FINGERPRINT CHECKS

Section 506(d) of Pub. L. 103–317 provided that: ''The Immigration and Naturalization Service shall conduct full fingerprint identification checks through the Federal Bureau of Investigation for all individuals over sixteen years of age adjusting immigration status in the United States pursuant to this section [amending this section and section 1182 of this title and enacting provisions set out as a note under section 1182 of this title].''

ADJUSTMENT OF STATUS OF CERTAIN NATIONALS OF PEOPLE'S REPUBLIC OF CHINA

Pub. L. 102–404, Oct. 9, 1992, 106 Stat. 1969, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Chinese Student Protection Act of 1992'.

''SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

''(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act [8 U.S.C. 1255] during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

''(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act [8 U.S.C. 1154(a)] for classification under section 203(b)(3)(A)(i) of such Act [8 U.S.C. 1153(b)(3)(A)(i)].

''(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

''(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

''(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act [8 U.S.C. 1182(a), (e)] shall not apply; and

''(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

''(4) The numerical level of section 202(a)(2) of such Act [8 U.S.C. 1152(a)(2)] shall not apply.

''(5) Section 245(c) of such Act [8 U.S.C. 1255(c)] shall not apply.

''(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

''(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 [8 U.S.C. 1101 note] as in effect on April 11, 1990;

''(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

''(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act [Oct. 9, 1992].

''(c) CONDITION; DISSEMINATION OF INFORMATION.—

''(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

''(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

''(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

''(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act [8 U.S.C. 1152(a)(2)] applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

''(2) ALLOTMENT IF SECTION 202(e) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

''(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act [8 U.S.C. 1153(b)(3)(A)(i)] in that year, and

''(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

''(3) APPLICABLE FISCAL YEAR.—

''(A) IN GENERAL.—In this subsection, the term 'applicable fiscal year' means each fiscal year during the period—

''(i) beginning with the fiscal year in which the application period begins; and

''(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act [8 U.S.C. 1255] pursuant to subsection (a).

''(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

''(e) APPLICATION PERIOD DEFINED.—In this section, the term 'application period' means the 12-month period beginning July 1, 1993.''

ADJUSTMENT OF STATUS FOR CERTAIN H–1 NONIMMIGRANT NURSES

Pub. L. 101–238, §2, Dec. 18, 1989, 103 Stat. 2099, as amended by Pub. L. 101–649, title I, §162(f)(1), Nov. 29, 1990, 104 Stat. 5011; Pub. L. 102–232, title III, §§302(e)(10), 307(*l*)(10), Dec. 12, 1991, 105 Stat. 1746, 1757, provided that:

''(a) IN GENERAL.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act [8 U.S.C. 1151, 1152] shall not apply to the adjustment of status under section 245 of such Act [8 U.S.C.

1255] of an immigrant, and the immigrant's accompanying spouse and children—

"(1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section 101(a) of such Act [8 U.S.C. 1101(a)(15)(H)(i)] to perform services as a registered nurse,

"(2) who, for at least 3 years before the date of application for adjustment of status (whether or not before, on, or after, the date of the enactment of this Act [Dec. 18, 1989]), has been employed as a registered nurse in the United States, and

"(3) whose continued employment as a registered nurse in the United States meets the standards established for the certification described in section 212(a)(5)(A) of such Act [8 U.S.C. 1182(a)(5)(A)].

The Attorney General shall promulgate regulations to carry out this subsection by not later than 90 days after the date of the enactment of this Act.

"(b) TRANSITION.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act [8 U.S.C. 1255] in the case of an alien who, as of September 1, 1989, is present in the United States in the status of a nonimmigrant under section 101(a)(15)(H)(i) of such Act [8 U.S.C. 1101(a)(15)(H)(i)] to perform services as a registered nurse, who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status, or who is the spouse or child of such an alien, unauthorized employment performed before the date of the enactment of the Immigration Act of 1990 [Nov. 29, 1990] shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and such an alien shall be considered as having continued to maintain lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 162(f)(1) of the Immigration Act of 1990 [Pub. L. 101–649, amending this note].

"(c) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions contained in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

"(d) APPLICATION PERIOD.—The alien, and accompanying spouse and children, must apply for such adjustment within the 5-year period beginning on the date the Attorney General promulgates regulations required under subsection (a)."

[Section 302(e)(10) of Pub. L. 102–232 provided that the amendment made by that section to section 2(b) of Pub. L. 101–238, set out above, is effective as if included in the Immigration Nursing Relief Act of 1989, Pub. L. 101–238.]

[Section 307(*l*) of Pub. L. 102–232 provided that the amendment made by that section to section 2(a)(3) of Pub. L. 101–238, set out above, is effective as if included in section 603(a) of the Immigration Act of 1990, Pub. L. 101–649.]

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

Pub. L. 106–429, § 101(a) [title V, § 586], Nov. 6, 2000, 114 Stat. 1900, 1900A–57, as amended by Pub. L. 108–447, div. D, title V, § 534(m)(1)–(6), Dec. 8, 2004, 118 Stat. 3007, provided that:

"(a) The status of certain aliens from Vietnam, Cambodia, and Laos described in subsection (b) of this section may be adjusted by the Secretary of Homeland Security, under such regulations as the Secretary of Homeland Security may prescribe, to that of an alien lawfully admitted permanent residence if—

"(1) the alien makes an application for such adjustment and pays the appropriate fee;

"(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence except as described in subsection (c); and

"(3) the alien had been physically present in the United States prior to October 1, 1997.

"(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who was inspected and paroled into the United States before October 1, 1997 and was physically present in the United States on October 1, 1997; and

"(1) was paroled into the United States from Vietnam under the auspices of the Orderly Departure Program; or

"(2) was paroled into the United States from a refugee camp in East Asia; or

"(3) was paroled into the United States from a displaced person camp administered by the United Nations High Commissioner for Refugees in Thailand.

"(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) and (9) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (7)(A), (9)] shall not be applicable to any alien seeking admission to the United States under this subsection, and nothwithstanding [sic] any other provision of law, the Secretary of Homeland Security may waive 212(a)(1); 212(a)(6)(B), (C), and (F); 212(a)(8)(A); 212(a)(10)(B) and (D) with respect to such an alien in order to prevent extreme hardship to the alien or the alien's spouse, parent, son or daughter, who is a citizen of the United States or an alien lawfully admitted for permanent residence. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation.

"(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Secretary of Homeland Security shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(1), (b)(2) and (b)(3).

"(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

"(f) ADJUDICATION OF APPLICATIONS.—The Secretary of Homeland Security shall—

"(1) adjudicate applications for adjustment under this section, notwithstanding any limitation on the number of adjustments under this section or any deadline for such applications that previously existed in law or regulation; and

"(2) not charge a fee in addition to any fee that previously was submitted with such application."

[Pub. L. 108–447, div. D, title V, § 534(m)(7), Dec. 8, 2004, 118 Stat. 3007, provided that: "The amendments made by this subsection [amending section 101(a) [title V, § 586] of Pub. L. 106–429, set out above] shall take effect as if enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 [Pub. L. 106–429]."]

Pub. L. 101–167, title V, § 599E, Nov. 21, 1989, 103 Stat. 1263, as amended by Pub. L. 101–513, title V, § 598(b), Nov. 5, 1990, 104 Stat. 2063; Pub. L. 101–649, title VI, § 603(a)(22), Nov. 29, 1990, 104 Stat. 5084; Pub. L. 102–232, title III, § 307(*l*)(9), Dec. 12, 1991, 105 Stat. 1757; Pub. L. 102–391, title V, § 582(a)(2), (b)(2), Oct. 6, 1992, 106 Stat. 1686; Pub. L. 102–511, title IX, § 905(b)(2), Oct. 24, 1992, 106 Stat. 3356; Pub. L. 103–236, title V, § 512(2), Apr. 30, 1994, 108 Stat. 466; Pub. L. 103–416, title II, § 219(bb), Oct. 25, 1994, 108 Stat. 4319; Pub. L. 104–208, div. A, title I, § 101(c) [title V, § 575(2)], Sept. 30, 1996, 110 Stat. 3009–121, 3009–168; Pub. L. 104–319, title I, § 101(2), Oct. 19, 1996, 110 Stat. 3865; Pub. L. 105–118, title V, § 574(2), Nov. 26, 1997,

111 Stat. 2432; Pub. L. 105–277, div. A, § 101(f) [title VII, § 705(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–389; Pub. L. 106–113, div. B, § 1000(a)(4) [title II, § 214(2)], Nov. 29, 1999, 113 Stat. 1535, 1501A–240; Pub. L. 106–554, § 1(a)(1) [title II, § 212(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–27; Pub. L. 107–116, title II, § 213(2), Jan. 10, 2002, 115 Stat. 2200; Pub. L. 108–7, div. G, title II, § 213(2), Feb. 20, 2003, 117 Stat. 324; Pub. L. 108–199, div. E, title II, § 213(2), Jan. 23, 2004, 118 Stat. 253; Pub. L. 108–447, div. F, title II, § 213(2), Dec. 8, 2004, 118 Stat. 3140; Pub. L. 109–102, title V, § 534(m)(2), Nov. 14, 2005, 119 Stat. 2211; Pub. L. 109–289, div. B, title II, § 20412(b)(2), as added by Pub. L. 110–5, § 2, Feb. 15, 2007, 121 Stat. 25; Pub. L. 110–161, div. J, title VI, § 634(k)(2), Dec. 26, 2007, 121 Stat. 2329; Pub. L. 111–8, div. H, title VII, § 7034(g)(2), Mar. 11, 2009, 123 Stat. 878; Pub. L. 111–117, div. F, title VII, § 7034(f)(2), Dec. 16, 2009, 123 Stat. 3361, provided that:

''(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

''(1) applies for such adjustment,

''(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

''(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

''(4) pays a fee (determined by the Attorney General) for the processing of such application.

''(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

''(1) was a national of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania, Vietnam, Laos, or Cambodia, and

''(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 2010, after being denied refugee status.

''(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (7)(A)] shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

''(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].''

[Section 307(*l*) of Pub. L. 102–232 provided that the amendment made by that section to section 599E of Pub. L. 101–167, set out above, is effective as if included in section 603(a) of the Immigration Act of 1990, Pub. L. 101–649.]

Pub. L. 95–145, title I, §§ 101–107, Oct. 28, 1977, 91 Stat. 1223, as amended by Pub. L. 96–212, title II, § 203(i), Mar. 17, 1980, 94 Stat. 108, provided that status of alien who was native or citizen of Vietnam, Laos, or Cambodia, and was paroled into United States as refugee between Mar. 31, 1975, and Jan. 1, 1979, or was inspected and admitted or paroled into United States on or before Mar. 31, 1975, and was physically present in United States on Mar. 31, 1975, could be adjusted by Attorney General to that of an alien lawfully admitted for permanent residence if alien applied for such adjustment within six years after Oct. 28, 1977, and met certain other eligibility requirements.

ADJUSTMENT OF STATUS OF NONIMMIGRANT ALIENS RESIDING IN THE VIRGIN ISLANDS TO PERMANENT RESIDENT ALIEN STATUS

Pub. L. 97–271, Sept. 30, 1982, 96 Stat. 1157, as amended by Pub. L. 101–649, title I, § 162(e)(6), Nov. 29, 1990, 104 Stat. 5011, provided that status of alien who was inspected and admitted to Virgin Islands of the United States as a nonimmigrant alien worker under section 1101(a)(15)(H)(ii) of this title, or as spouse or minor child of such worker, and had resided continuously in Virgin Islands of the United States since June 30, 1975, could be adjusted by Attorney General to that of an alien lawfully admitted for permanent residence if alien applied for such adjustment during one-year period beginning Sept. 30, 1982, and met certain other eligibility requirements.

DEVELOPMENT OF ELIGIBILITY CRITERIA FOR ADMISSION OF REFUGEES FROM CAMBODIA

Pub. L. 95–624, § 16, Nov. 9, 1978, 92 Stat. 3465, provided that: ''The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.''

CUBAN REFUGEES: ADJUSTMENT OF STATUS

Section 606 of div. C of Pub. L. 104–208 provided that:

''(a) IN GENERAL.—Public Law 89–732 [set out below] is repealed effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 [22 U.S.C. 6063(c)] (Public Law 104–114) that a democratically elected government in Cuba is in power.

''(b) LIMITATION.—Subsection (a) shall not apply to aliens for whom an application for adjustment of status is pending on such effective date.''

Pub. L. 89–732, Nov. 2, 1966, 80 Stat. 1161, as amended by Pub. L. 94–571, § 8, Oct. 20, 1976, 90 Stat. 2706; Pub. L. 96–212, title II, § 203(i), Mar. 17, 1980, 94 Stat. 108; Pub. L. 106–386, div. B, title V, § 1509(a), Oct. 28, 2000, 114 Stat. 1530; Pub. L. 109–162, title VIII, § 823(a), Jan. 5, 2006, 119 Stat. 3063, provided: ''That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act [subsec. (c) of this section], the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States, except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(J) [probably means section 204(a)(1)(J) of the Immigration and Nationality

Act, which is classified to section 1154(a)(1)(J) of this title]. An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) [Jan. 5, 2006], or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.

''SEC. 2. In the case of any alien described in section 1 of this Act who prior to the effective date thereof [Nov. 2, 1966], has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act [Nov. 2, 1966], whichever date is later.

''SEC. 3. Section 13 of the Act entitled 'An Act to amend the Immigration and Nationality Act, and for other purposes', approved October 3, 1965 (Public Law 89–236) [amending subsecs. (b) and (c) of this section] is amended by adding at the end thereof the following new subsection:

'' '(c) Nothing contained in subsection (b) of this section [amending subsec. (c) of this section] shall be construed to affect the validity of any application for adjustment under section 245 [this section] filed with the Attorney General prior to December 1, 1965, which would have been valid on that date; but as to all such applications the statutes or parts of statutes repealed or amended by this Act [Pub. L. 89–236] are, unless otherwise specifically provided therein, continued in force and effect.'

''SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101(a) and (b) of the Immigration and Nationality Act [section 1101(a), (b) of this title] shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any other law relating to immigration, nationality, or naturalization.

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

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

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

[Section 204(b)(1)(C) of Pub. L. 96–212 provided that the amendment of section 1 of Pub. L. 89–732, set out above, by Pub. L. 96–212 is effective immediately before Apr. 1, 1980.]

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

(a) Temporary resident status

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

(1) Timely application

(A) During application period

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

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

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

(C) Information included in application

Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 1154(a) of this title.

(2) Continuous unlawful residence since 1982

(A) In general

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

(B) Nonimmigrants

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

(C) Exchange visitors

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