

105TH CONGRESS  
1ST SESSION

# H. R. 3049

To adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Mr. CONYERS (for himself, Mrs. MEEK of Florida, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, Mr. WATT of North Carolina, Mr. HASTINGS of Florida, Ms. BROWN of Florida, and Ms. WATERS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haitian Refugee Immi-  
5 gration Fairness Act of 1997”.

6 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NA-**  
7 **TIONALS.**

8 (a) ADJUSTMENT OF STATUS.—

1           (1) IN GENERAL.—Notwithstanding section  
2           245(c) of the Immigration and Nationality Act, the  
3           status of any alien described in subsection (b) shall  
4           be adjusted by the Attorney General to that of an  
5           alien lawfully admitted for permanent residence, if  
6           the alien—

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

9                   (B) is otherwise eligible to receive an im-  
10                  migrant visa and is otherwise admissible to the  
11                  United States for permanent residence, except  
12                  in determining such admissibility the grounds  
13                  for inadmissibility specified in paragraphs (4),  
14                  (5), (6)(A), and (7)(A) of section 212(a) of the  
15                  Immigration and Nationality Act shall not  
16                  apply.

17           (2) RELATIONSHIP OF APPLICATION TO CER-  
18           TAIN ORDERS.—An alien present in the United  
19           States who has been ordered excluded, deported, re-  
20           moved, or ordered to depart voluntarily from the  
21           United States, under any provision of the Immigra-  
22           tion and Nationality Act may, notwithstanding such  
23           order, apply for adjustment of status under para-  
24           graph (1). Such an alien may not be required, as a  
25           condition on submitting or granting such applica-

1       tion, to file a motion to reopen, reconsider, or vacate  
2       such order. If the Attorney General grants the appli-  
3       cation, the Attorney General shall cancel the order.  
4       If the Attorney General renders a final administra-  
5       tive decision to deny the application, the order shall  
6       be effective and enforceable to the same extent as if  
7       the application had not been made.

8       (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
9       TUS.—The benefits provided by subsection (a) shall apply  
10      to any alien who is a national of Haiti—

11           (1) who filed for asylum before December 31,  
12           1995, was paroled into the United States prior to  
13           December 31, 1995, after having been identified as  
14           having a credible fear of persecution, or was paroled  
15           into the United States for emergent reasons or rea-  
16           sons deemed strictly in the public interest; and

17           (2) has been physically present in the United  
18           States for at least 1 year and is physically present  
19           in the United States on the date the application for  
20           such adjustment is filed, except an alien shall not be  
21           considered to have failed to maintain continuous  
22           physical presence by reason of an absence, or ab-  
23           sences, from the United States for any periods in  
24           the aggregate not exceeding 180 days.

25       (c) STAY OF REMOVAL.—

1           (1) IN GENERAL.—The Attorney General shall  
2 provide by regulation for an alien subject to a final  
3 order of deportation, removal, or exclusion to seek a  
4 stay of such order based on the filing of an applica-  
5 tion under subsection (a).

6           (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
7 standing any provision of the Immigration and Na-  
8 tionality Act, the Attorney General shall not order  
9 any alien to be removed from the United States, if  
10 the alien is in exclusion, deportation, or removal pro-  
11 ceedings under any provision of such Act and raises  
12 as a defense to such an order the eligibility of the  
13 alien to apply for adjustment of status under sub-  
14 section (a), except where the Attorney General has  
15 rendered a final administrative determination to  
16 deny the application.

17           (3) WORK AUTHORIZATION.—The Attorney  
18 General may authorize an alien who has applied for  
19 adjustment of status under subsection (a) to engage  
20 in employment in the United States during the  
21 pendency of such application and may provide the  
22 alien with an “employment authorized” endorsement  
23 or other appropriate document signifying authoriza-  
24 tion of employment, except that if such application  
25 is pending for a period exceeding 180 days, and has

1 not been denied, the Attorney General shall author-  
2 ize such employment.

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

5 (1) IN GENERAL.—Notwithstanding section  
6 245(c) of the Immigration and Nationality Act, the  
7 status of an alien shall be adjusted by the Attorney  
8 General to that of an alien lawfully admitted for per-  
9 manent residence, if—

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

11 (B) the alien is the spouse, child, or un-  
12 married son or daughter, of an alien whose sta-  
13 tus is adjusted to that of an alien lawfully ad-  
14 mitted for permanent residence under sub-  
15 section (a), except that in the case of such an  
16 unmarried son or daughter, the son or daughter  
17 shall be required to establish that they have  
18 been physically present in the United States for  
19 at least 1 year;

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

23 (D) the alien is otherwise eligible to receive  
24 an immigrant visa and is otherwise admissible  
25 to the United States for permanent residence,

1           except in determining such admissibility the  
2           grounds for exclusion specified in paragraphs  
3           (4), (5), (6)(A), and (7)(A) of section 212(a) of  
4           the Immigration and Nationality Act shall not  
5           apply.

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

13          (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
14          The Attorney General shall provide to applicants for ad-  
15          justment of status under subsection (a) the same right to,  
16          and procedures for, administrative review as are provided  
17          to—

18                 (1) applicants for adjustment of status under  
19                 section 245 of the Immigration and Nationality Act;  
20                 or

21                 (2) aliens subject to removal proceedings under  
22                 section 240 of such Act.

23          (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
24          mination by the Attorney General as to whether the status

1 of any alien should be adjusted under this section is final  
2 and shall not be subject to review by any court.

3 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

4 When an alien is granted the status of having been law-  
5 fully admitted for permanent residence pursuant to this  
6 section, the Secretary of State shall not be required to re-  
7 duce the number of immigrant visas authorized to be is-  
8 sued under any provision of the Immigration and Nation-  
9 ality Act.

10 (h) APPLICATION OF IMMIGRATION AND NATIONAL-

11 ITY ACT PROVISIONS.—Except as otherwise specifically

12 provided in this Act, the definitions contained in the Immi-

13 gration and Nationality Act shall apply in the administra-

14 tion of this section. Nothing contained in this Act shall

15 be held to repeal, amend, alter, modify, affect, or restrict

16 the powers, duties, functions, or authority of the Attorney

17 General in the administration and enforcement of such

18 Act or any other law relating to immigration, nationality,

19 or naturalization. The fact that an alien may be eligible

20 to be granted the status of having been lawfully admitted

21 for permanent residence under this section shall not pre-

22 clude the alien from seeking such status under any other

23 provision of law for which the alien may be eligible.

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