

109TH CONGRESS
1ST SESSION

S. 297

To provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2005

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat, and for other purposes.

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 “Montserrat Immigra-
5 tion Fairness Act”.

1 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS**
2 **OF MONTSERRAT.**

3 (a) IN GENERAL.—The status of any alien described
4 in subsection (c) shall be adjusted by the Secretary of
5 Homeland Security to that of an alien lawfully admitted
6 for permanent residence, if the alien—

7 (1) applies for such adjustment within 1 year
8 after the date of enactment of this Act; and

9 (2) is determined to be admissible to the United
10 States for permanent residence.

11 (b) CERTAIN GROUNDS FOR EXCLUSION INAPPLI-
12 CABLE.—For purposes of determining admissibility under
13 subsection (a)(2), the grounds for inadmissibility specified
14 in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a)
15 of the Immigration and Nationality Act (8 U.S.C.
16 1182(a)) shall not apply.

17 (c) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
18 TUS.—An alien shall be eligible for adjustment of status
19 under subsection (a) only if the alien—

20 (1) is a national of Montserrat; and

21 (2) was granted temporary protected status in
22 the United States by the Secretary of Homeland Se-
23 curity pursuant to the designation of Montserrat
24 under section 244(b)(1) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1254a(b)(1)) on August 28,
26 1997.

1 **SEC. 3. EFFECT OF APPLICATION ON CERTAIN ORDERS.**

2 An alien present in the United States who has been
3 ordered excluded, deported, or removed, or ordered to de-
4 part voluntarily, from the United States through an order
5 of removal issued under the Immigration and Nationality
6 Act (8 U.S.C. 1101 et seq.) may, notwithstanding such
7 order of removal, apply for adjustment of status under
8 section 1. Such an alien shall not be required to file a
9 separate motion to reopen, reconsider, or vacate the order
10 of removal. If the Secretary of Homeland Security ap-
11 proves the application, the Secretary shall cancel the order
12 of removal. If the Secretary renders a final administrative
13 decision to deny the application, the order of removal shall
14 be effective and enforceable to the same extent as if the
15 application had not been made.

16 **SEC. 4. WORK AUTHORIZATION.**

17 The Secretary of Homeland Security shall authorize
18 an alien who has applied for adjustment of status under
19 section 1 to engage in employment in the United States
20 during the pendency of such application and shall provide
21 the alien with an appropriate document signifying author-
22 ization of employment.

23 **SEC. 5. ADJUSTMENT OF STATUS FOR CERTAIN FAMILY**
24 **MEMBERS.**

25 (a) IN GENERAL.—The status of an alien shall be
26 adjusted by the Secretary of Homeland Security to that

1 of an alien lawfully admitted for permanent residence if
2 the alien—

3 (1) is the spouse, parent, or unmarried son or
4 daughter of an alien whose status is adjusted under
5 section 1;

6 (2) applies for adjustment under this section
7 within 2 years after the date of enactment of this
8 Act; and

9 (3) is determined to be admissible to the United
10 States for permanent residence.

11 (b) CERTAIN GROUNDS FOR EXCLUSION INAPPLI-
12 CABLE.—For purposes of determining admissibility under
13 subsection (a)(3), the grounds for inadmissibility specified
14 in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a)
15 of the Immigration and Nationality Act (8 U.S.C.
16 1182(a)) shall not apply.

17 **SEC. 6. AVAILABILITY OF REVIEW.**

18 (a) ADMINISTRATIVE REVIEW.—The Secretary of
19 Homeland Security shall provide to aliens applying for ad-
20 justment of status under section 1 or 4 the same right
21 to, and procedures for, administrative review as are pro-
22 vided to—

23 (1) applicants for adjustment of status under
24 section 245 of the Immigration and Nationality Act
25 (8 U.S.C. 1255); or

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

3 (b) **LIMITATION ON JUDICIAL REVIEW.**—A deter-
4 mination by the Secretary of Homeland Security as to
5 whether the status of any alien should be adjusted under
6 this Act is final and shall not be subject to review by any
7 court.

8 **SEC. 7. NO OFFSET IN NUMBER OF VISAS AVAILABLE.**

9 The granting of adjustment of status under section
10 2 shall not reduce the number of immigrant visas author-
11 ized to be issued under any provision of the Immigration
12 and Nationality Act (8 U.S.C. 1101 et seq.).

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