

1255a], but only until the end of the five-year period beginning on the date the alien was first granted such status, except that the five-year limitation shall not apply for the purposes of making payments from funds appropriated under the fiscal year 1995 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act [Pub. L. 103-333, see Tables for classification] for providing public information and outreach activities regarding naturalization and citizenship; and English language and civics instruction to any adult eligible legalized alien who has not met the requirements of section 312 of the Immigration and Nationality Act [8 U.S.C. 1423] for purposes of becoming naturalized as a citizen of the United States.”

[Pub. L. 101-238, §6(b), Dec. 18, 1989, 103 Stat. 2105, provided that: “The amendments made by subsection (a) [amending section 204 of Pub. L. 99-603, set out above] shall apply to the use of allotments for fiscal years beginning with fiscal year 1989.”]

#### APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS

Section 303(c) of Pub. L. 99-603, defined “eligible legalized alien” relative to State legalization assistance, prior to repeal by Pub. L. 100-525, §2(n)(3), Oct. 24, 1988, 102 Stat. 2613.

#### REPORTS ON LEGALIZATION PROGRAM

Section 404 of Pub. L. 99-603 provided that:

“(a) IN GENERAL.—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act [8 U.S.C. 1255a].

“(b) INITIAL REPORT DESCRIBING LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 18 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

“(1) geographical origins and manner of entry of these aliens into the United States,

“(2) their demographic characteristics, and

“(3) a general profile and characteristics.

“(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

“(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

“(2) the patterns of employment of the legalized population, and

“(3) the participation of legalized aliens in social service programs.”

[Functions of President under section 404 of Pub. L. 99-603 relating to initial report described in section 404(b) delegated to Attorney General and relating to second report described in section 404(c) delegated to Secretary of Labor by sections 1(c) and 2(c) of Ex. Ord. No. 12789, Feb. 10, 1992, 57 F.R. 5225, set out as a note under section 1364 of this title.]

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1160, 1182, 1324b of this title; title 20 section 3283; title 26 section 6039E; title 42 sections 408, 602, 672, 1436a, 3056i.

### § 1255b. Adjustment of status of certain nonimmigrants to that of persons admitted for permanent residence

Notwithstanding any other provision of law—

#### (a) Application

Any alien admitted to the United States as a nonimmigrant under the provisions of either

section 1101(a)(15)(A)(i) or (ii) or 1101(a)(15)(G)(i) or (ii) of this title, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

#### (b) Record of admission

If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien’s immediate family and that adjustment of the alien’s status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under this chapter, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien’s lawful admission for permanent residence as of the date the order of the Attorney General approving the application for adjustment of status is made.

#### (c) Report to the Congress; resolution not favoring adjustment of status; reduction of quota

A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. The Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 1152 of this title for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

#### (d) Limitations

The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.

(Pub. L. 85-316, §13, Sept. 11, 1957, 71 Stat. 642; Pub. L. 97-116, §17, Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100-525, §9(kk), Oct. 24, 1988, 102 Stat. 2622; Pub. L. 103-416, title II, §207, Oct. 25, 1994, 108 Stat. 4312.)

#### CODIFICATION

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

#### AMENDMENTS

1994—Subsec. (c). Pub. L. 103-416, §207(1), struck out after second sentence “If, during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law.”

Pub. L. 103-416, §207(2), which directed that subsec. (c) be amended by substituting “The” for “If neither the

Senate nor the House of Representatives passes such a resolution within the time above specified the", was executed by making the substitution in text which contained the phrase "specified, the" rather than "specified the", to reflect the probable intent of Congress.

1988—Subsec. (b). Pub. L. 100-525 struck out "of" after "as of the date".

1981—Subsec. (b). Pub. L. 97-116 inserted provision requiring that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest.

#### 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.

#### DEFINITIONS; APPLICABILITY OF SECTION 1101(a) AND (b) OF THIS TITLE

The definitions in subsecs. (a) and (b) of section 1101 of this title apply to this section, see section 14 of Pub. L. 85-316, set out as a note under section 1101 of this title.

#### CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.

Nonimmigrant alien, see section 1101(a)(15) of this title.

Person of good moral character, see section 1101(f) of this title.

United States, see section 1101(a)(38) of this title.

#### § 1256. Rescission of adjustment of status; effect upon naturalized citizen

(a) If, at any time within five years after the status of a person has been otherwise adjusted under the provisions of section 1255 or 1259 of this title or any other provision of law to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling deportation in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made.

(b) Any person who has become a naturalized citizen of the United States upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which such person was not in fact eligible, and which is subsequently rescinded under subsection (a) of this section, shall be subject to the provisions of section 1451 of this title as a person whose naturalization was procured by concealment of a material fact or by willful misrepresentation.

(June 27, 1952, ch. 477, title II, ch. 5, § 246, 66 Stat. 217; Oct. 25, 1994, Pub. L. 103-416, title II, § 219(m), 108 Stat. 4317.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-416 struck out first three sentences which read as follows: "If, at any time

within five years after the status of a person has been adjusted under the provisions of section 1254 of this title or under section 19(c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made."

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 219(m) of Pub. L. 103-416 provided that the amendment made by that section is effective Oct. 25, 1994.

#### CROSS REFERENCES

Definition of alien, Attorney General, and lawfully admitted for permanent residence, see section 1101 of this title.

#### § 1257. Adjustment of status of certain resident aliens to nonimmigrant status; exceptions

(a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15)(A), (E), or (G) of section 1101(a) of this title, if such alien had at the time of entry or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such paragraphs. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) of this section shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15)(A), (E), or (G) of section 1101(a) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 247, 66 Stat. 218.)

#### CROSS REFERENCES

Definition of alien, Attorney General, entry, immigrant, lawfully admitted for permanent residence, and nonimmigrant alien, see section 1101 of this title.

Issuance of immigrant visa to alien entitled to nonimmigrant status upon waiver of rights accruing from such status, see section 1184 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1184 of this title; title 50 App. section 456.