

Public Law 94-571
94th Congress

An Act

To amend the Immigration and Nationality Act, and for other purposes.

Oct. 20, 1976

[H.R. 14535]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration and Nationality Act Amendments of 1976".

Immigration and
Nationality Act
Amendments of
1976.
8 USC 1101 note.

SEC. 2. Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), and immediate relatives of United States citizens as specified in subsection (b) of this section, (1) the number of aliens born in any foreign state or dependent area located in the Eastern Hemisphere who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 45,000 and shall not in any fiscal year exceed a total of 170,000; and (2) the number of aliens born in any foreign state of the Western Hemisphere or in the Canal Zone, or in a dependent area located in the Western Hemisphere, who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally shall not in any of the first three quarters of any fiscal year exceed a total of 32,000 and shall not in any fiscal year exceed a total of 120,000."; and

8 USC 1101.

8 USC 1153.

(2) by striking out subsections (c), (d), and (e).

SEC. 3. Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out the last proviso in subsection (a);

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizen, as defined in section 201(b), shall be chargeable for the purpose of the limitations set forth in sections 201(a) and 202(a), to the hemisphere in which such colony or other component or dependent area is located, and to the foreign state, respectively, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 600 in any one fiscal year."; and

(3) by inserting at the end thereof the following new subsection:

8 USC 1152.

“(e) Whenever the maximum number of visas or conditional entries have been made available under section 202 to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas and conditional entries, not to exceed 20,000, in the case of a foreign state or 600 in the case of a dependent area, shall be made available and allocated as follows:

“(1) Visas shall first be made available, in a number not to exceed 20 per centum of the number specified in this subsection, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

“(2) Visas shall next be made available, in a number not to exceed 20 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

“(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

“(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

“(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

“(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

“(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe, in a number not to exceed 6 per centum of the number specified in this subsection, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted

by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term 'general area of the Middle East' means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

"General area of the Middle East."

"(8) Visas so allocated but not required for the classes specified in paragraphs (1) through (7) shall be made available to other qualified immigrants strictly in the chronological order in which they qualify."

SEC. 4. Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "201(a) (ii)" each place it appears in paragraphs (1) through (7) of subsection (a) and inserting in lieu thereof in each such place "201(a) (1) or (2)";

(2) by striking out the period at the end of paragraph (3) of subsection (a) and inserting in lieu thereof a comma and the following: "and whose services in the professions, sciences, or arts are sought by an employer in the United States.;"

(3) by striking out the period at the end of paragraph (5) of subsection (a) and inserting in lieu thereof a comma and the following: "provided such citizens are at least twenty-one years of age.;" and

(4) by striking out the second sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within two years following notification of the availability of such visa that such failure to apply was due to circumstances beyond his control. Upon such termination the approval of any petition approved pursuant to section 204(b) shall be automatically revoked."

8 USC 1154.

SEC. 5. Section 212(a) (14) of such Act (8 U.S.C. 1182(a) (14)) is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6), and to non-preference immigrant aliens described in section 203(a) (8);"

8 USC 1153.

SEC. 6. Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245. (a) The status of an alien who was inspected and admitted or paroled into the United States 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) Upon the approval of an application for adjustment made under subsection (a), 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 or nonpreference visas authorized to be issued under sections 202(e) or 203(a) within the class to which the alien is chargeable for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 212(d)(4)(C)."

SEC. 7. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(b) Section 204 of such Act (8 U.S.C. 1154) is amended to add a new subsection (f), to read as follows:

"(f) The provisions of this section shall be applicable to qualified immigrants specified in paragraphs (1) through (6) of section 202(e)."

(c) Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by striking out "section 101(a)(27)(B)" and inserting in lieu thereof "section 101(a)(27)(A)".

(d) Section 212(a)(24) of such Act (8 U.S.C. 1182(a)(24)) is amended by striking out "101(a)(27)(A) and (B)" and inserting in lieu thereof "101(a)(27)(A) and aliens born in the Western Hemisphere".

(e) Section 241(a)(10) of such Act (8 U.S.C. 1251(a)(10)) is amended by striking out the language in the parentheses and inserting in lieu thereof the following: "other than an alien described in section 101(a)(27)(A) and aliens born in the Western Hemisphere".

(f) Section 244(d) of such Act (8 U.S.C. 1254(d)) is amended by striking out "is entitled to special immigrant classification under section 101(a)(27)(A), or".

(g) Section 21(e) of the Act of October 3, 1965 (Public Law 89-236; 79 Stat. 921), is repealed.

SEC. 8. The Act entitled "An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes", approved November 2, 1966 (8 U.S.C. 1255, note), is amended by adding at the end thereof the following new section:

"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

Ante, p. 2703.
8 USC 1153.

8 USC 1151.

Repeal.

Cuban refugees,
adjustment of
status.

on or before the effective date of the Immigration and Nationality Act Amendments of 1976.”

SEC. 9. (a) The amendments made by this Act shall not operate to affect the entitlement to immigrant status or the order of consideration for issuance of an immigrant visa of an alien entitled to a preference status, under section 203(a) of the Immigration and Nationality Act, as in effect on the day before the effective date of this Act, on the basis of a petition filed with the Attorney General prior to such effective date.

8 USC 1153 note.

8 USC 1153.

(b) An alien chargeable to the numerical limitation contained in section 21(e) of the Act of October 3, 1965 (79 Stat. 921), who established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence on the day before the effective date of this Act shall be deemed to be entitled to immigrant status under section 203(a)(8) of the Immigration and Nationality Act and shall be accorded the priority date previously established by him. Nothing in this section shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of the Immigration and Nationality Act, as amended by section 4 of this Act. Any petition filed by, or in behalf of, such an alien to accord him a preference status under section 203(a) shall, upon approval, be deemed to have been filed as of the priority date previously established by such alien. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act, as amended by this Act.

Numerical
limitation.

SEC. 10. The foregoing provisions of this Act, including the amendments made by such provisions, shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act.

Effective date.
8 USC 1101 note.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1553 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 29, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 21, Presidential statement.