

S 656 IS

111th CONGRESS

1st Session

S. 656

To provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residents.

IN THE SENATE OF THE UNITED STATES**March 19, 2009**

Mr. REED (for himself, Mr. WHITEHOUSE, Mr. KERRY, Ms. MIKULSKI, Ms. KLOBUCHAR, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Liberian Refugee Immigration Fairness Act of 2009'.

SEC. 2. ADJUSTMENT OF STATUS.

(a) Adjustment of Status-

(1) IN GENERAL-

(A) ELIGIBILITY- Except as provided under subparagraph (B), the Secretary of Homeland Security shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien--

(i) applies for adjustment before April 1, 2011; and

(ii) is otherwise eligible to receive an immigrant visa and 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), and (7)(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply. [-]

(B) INELIGIBLE ALIENS- An alien shall not be eligible for adjustment of status under this section if the Secretary of Homeland Security determines that the alien has been convicted of--

(i) any aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)); or

(ii) 2 or more crimes involving moral turpitude.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS-

(A) IN GENERAL- An alien present in the United States who has been subject to an order of exclusion, deportation, or removal, or has been ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1) if otherwise qualified under such paragraph.

(B) SEPARATE MOTION NOT REQUIRED- An alien described in subparagraph (A) may not be required,

as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A).

(C) EFFECT OF DECISION BY SECRETARY- If the Secretary of Homeland Security grants an application under paragraph (1), the Secretary shall cancel the order described in subparagraph (A). If the Secretary of Homeland Security 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-

(1) IN GENERAL- The benefits provided under subsection (a) shall apply to any alien--

(A) who is--

(i) a national of Liberia; and

(ii) has been continuously present in the United States from January 1, 2009, through the date of application under subsection (a); or

(B) who is the spouse, child, or unmarried son or daughter of an alien described in subparagraph (A).

(2) DETERMINATION OF CONTINUOUS PHYSICAL PRESENCE- For purposes of establishing the period of continuous physical presence referred to in paragraph (1), an alien shall not be considered to have failed to maintain continuous physical presence by reasons 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 Secretary of Homeland Security 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 in the Immigration and Nationality Act, the Secretary of Homeland Security shall not order an 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 Secretary of Homeland Security has made a final determination to deny the application.

(3) WORK AUTHORIZATION-

(A) IN GENERAL- The Secretary of Homeland Security may--

(i) 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

(ii) provide the alien with an 'employment authorized' endorsement or other appropriate document signifying authorization of employment.

(B) PENDING APPLICATIONS- If an application for adjustment of status under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary of Homeland Security shall authorize such employment.

(d) Record of Permanent Residence- Upon the approval of an alien's application for adjustment of status under subsection (a), the Secretary of Homeland Security shall establish a record of the alien's admission for permanent record as of the date of the alien's arrival in the United States.

(e) Availability of Administrative Review- The Secretary of Homeland Security 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); and

(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 Secretary of Homeland Security regarding the adjustment of status of any alien under this section is final and shall not be subject to review by any court.

(g) No Offset in Number of Visas Available- If 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-

(1) DEFINITIONS- Except as otherwise specifically provided in this Act, the definitions contained in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall apply in this section.

(2) SAVINGS PROVISION- Nothing in this Act may be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary of Homeland Security in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

(3) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS- Eligibility to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude an alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

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