

**§ 1439. Naturalization through service in the armed forces**

**(a) Requirements**

A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

**(b) Exceptions**

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this chapter, except that—

(1) no residence within a State or district of the Service in the United States shall be required;

(2) notwithstanding section 1429 of this title insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service;

(3) the applicant shall furnish to the Secretary of Homeland Security, prior to any hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable (the certificate or certificates herein provided for shall be conclusive evidence of such service and discharge); and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

**(c) Periods when not in service**

In the case such applicant's service was not continuous, the applicant's residence in the United States and State or district of the Service in the United States, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five

years immediately preceding the date of filing such application between the periods of applicant's service in the Armed Forces, shall be alleged in the application filed under the provisions of subsection (a) of this section, and proved at any hearing thereon. Such allegation and proof shall also be made as to any period between the termination of applicant's service and the filing of the application for naturalization.

**(d) Residence requirements**

The applicant shall comply with the requirements of section 1427(a) of this title, if the termination of such service has been more than six months preceding the date of filing the application for naturalization, except that such service within five years immediately preceding the date of filing such application shall be considered as residence and physical presence within the United States.

**(e) Moral character**

Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 1427(a) of this title.

**(f) Revocation**

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.

**(g) Processing and adjudication of applications**

Not later than 6 months after receiving an application for naturalization filed by a current member of the Armed Forces under subsection (a), section 1440(a) of this title, or section 1440-1 of this title, by the spouse of such member under section 1430(b) of this title, or by a surviving spouse or child under section 1430(d) of this title, United States Citizenship and Immigration Services shall—

(1) process and adjudicate the application, including completing all required background checks to the satisfaction of the Secretary of Homeland Security; or

(2) provide the applicant with—

(A) an explanation for its inability to meet the processing and adjudication deadline under this subsection; and

(B) an estimate of the date by which the application will be processed and adjudicated.

**(h) Annual report**

The Director of United States Citizenship and Immigration Services shall submit an annual report to the Subcommittee on Immigration, Border Security, and Refugees and the Subcommittee on Homeland Security<sup>1</sup> of the Senate and the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law and the Subcommittee<sup>2</sup> on Homeland Security of the House of Representatives that identifies every application filed under subsection (a), subsection (b) or (d) of section 1430 of this title, section 1440(a) of this title, or section 1440-1 of this title that is not processed and adjudicated within 1 year after it was filed due to delays in conducting required background checks.

(June 27, 1952, ch. 477, title III, ch. 2, § 328, 66 Stat. 249; Pub. L. 90-633, § 5, Oct. 24, 1968, 82 Stat. 1344; Pub. L. 97-116, § 15(e), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 101-649, title IV, § 407(b)(4), (c)(10), (d)(8), Nov. 29, 1990, 104 Stat. 5040-5042; Pub. L. 102-232, title III, § 305(c), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 108-136, div. A, title XVII, § 1701(a), (b)(1), (c)(1)(A), (f), Nov. 24, 2003, 117 Stat. 1691, 1692; Pub. L. 110-382, § 3(a), Oct. 9, 2008, 122 Stat. 4088.)

AMENDMENT OF SECTION

*For repeal of amendment by section 4 of Pub. L. 110-382, see Termination Date of 2008 Amendment note below.*

AMENDMENTS

2008—Subsecs. (g), (h). Pub. L. 110-382, §§ 3(a), 4, temporarily added subsecs. (g) and (h). See Termination Date of 2008 Amendment note below.

2003—Subsec. (a). Pub. L. 108-136, § 1701(a), substituted “one year,” for “three years.”

Subsec. (b)(3). Pub. L. 108-136, § 1701(f), substituted “Secretary of Homeland Security” for “Attorney General”.

Pub. L. 108-136, § 1701(b)(1)(A), substituted “honorable (the)” for “honorable. The” and “discharge); and” for “discharge.”

Subsec. (b)(4). Pub. L. 108-136, § 1701(b)(1)(B), added par. (4).

Subsec. (f). Pub. L. 108-136, § 1701(c)(1)(A), added subsec. (f).

1991—Subsecs. (b), (c). Pub. L. 102-232 amended directory language of Pub. L. 101-649, § 407(d)(8). See 1990 Amendment notes below.

1990—Subsec. (a). Pub. L. 101-649, § 407(b)(4)(A), (c)(10), substituted “State or district of the Service in the United States” for “State”, “for at least three months” for “for at least six months”, and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b). Pub. L. 101-649, § 407(b)(4)(B), (c)(10), (d)(8), as amended by Pub. L. 102-232, substituted “within a State or district of the Service in the United States” for “within the jurisdiction of the court” in par. (1), “any hearing” for “the final hearing” in par. (3), and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101-649, § 407(b)(4)(C), (c)(10), (d)(8), as amended by Pub. L. 102-232, substituted “State or district of the Service in the United States” for

“State”, “any hearing” for “the final hearing”, and references to applicant’s and application for references to petitioner’s and petition wherever appearing.

Subsec. (d). Pub. L. 101-649, § 407(c)(10), substituted references to applicant and application for references to petitioner and petition wherever appearing.

1981—Subsec. (b)(2). Pub. L. 97-116 struck out “and section 1447(c) of this title” after “relates to deportability” and “and the witnesses” after “petition, the petitioner”.

1968—Subsec. (b)(2). Pub. L. 90-633 inserted reference to section 1429 of this title as it relates to deportability.

CHANGE OF NAME

Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of Committee on the Judiciary of the House of Representatives changed to Subcommittee on Immigration Policy and Enforcement of Committee on the Judiciary of the House of Representatives under Rule V(b) of the Committee’s rules of procedure adopted Jan. 19, 2011.

TERMINATION DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-382 repealed 5 years after Oct. 9, 2008, see section 4 of Pub. L. 110-382, set out as a note under section 271 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XVII, § 1701(c)(2), Nov. 24, 2003, 117 Stat. 1692, provided that: “The amendments made by paragraph (1) [amending this section and section 1440 of this title] shall apply to citizenship granted on or after the date of the enactment of this Act [Nov. 24, 2003].”

Pub. L. 108-136, div. A, title XVII, § 1705, Nov. 24, 2003, 117 Stat. 1696, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this title [enacting section 1443a of this title, amending this section and sections 1430, 1440 and 1440-1 of this title, and enacting provisions set out as notes under this section and sections 1151, 1430, and 1443a of this title] and the amendments made by this title shall take effect as if enacted on September 11, 2001.

“(b) EXCEPTION.—The amendments made by sections 1701(b) (relating to naturalization fees) [amending this section and section 1440 of this title] and 1701(d) (relating to naturalization proceedings overseas) [enacting section 1443a of this title] shall take effect on October 1, 2004.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

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.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

**§ 1440. Naturalization through active-duty service in the Armed Forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities**

**(a) Requirements**

Any person who, while an alien or a noncitizen national of the United States, has served honor-

<sup>1</sup> So in original. Probably should be “Committee on Homeland Security and Governmental Affairs”.

<sup>2</sup> So in original. Probably should be “Committee”.