

(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.

(f) Declaration of intention

An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General. Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing an application for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this chapter or any other Act.

(June 27, 1952, ch. 477, title III, ch. 2, § 334, 66 Stat. 254; Pub. L. 97-116, § 15(b), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 101-649, title IV, §§ 401(b), 407(c)(15), (d)(12), Nov. 29, 1990, 104 Stat. 5038, 5041, 5042; Pub. L. 102-232, title III, § 305(d), (e), (m)(7), Dec. 12, 1991, 105 Stat. 1750.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original a reference to this Act, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-232, § 305(m)(7), struck out “, in duplicate,” after “file with the Attorney General”.

Pub. L. 102-232, § 305(e), made technical correction to directory language of Pub. L. 101-649, § 407(d)(12)(B). See 1990 Amendment note below.

Subsecs. (f), (g). Pub. L. 102-232, § 305(d), redesignated subsec. (g) as (f).

1990—Pub. L. 101-649, § 407(d)(12)(A), substituted “Application for naturalization; declaration of intention” for “Petition for naturalization” in section catchline.

Subsec. (a). Pub. L. 101-649, § 407(c)(15), (d)(12)(B), as amended by Pub. L. 102-232, § 305(e), substituted “with the Attorney General” for “in the office of the clerk of a naturalization court”, “under this subchapter” for “upon the hearing of such petition”, and “application” for “petition” wherever appearing.

Pub. L. 101-649, § 401(b), inserted at end “In the case of an applicant subject to a requirement of continuous residence under section 1427(a) or 1430(a) of this title, the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.”

Subsec. (b). Pub. L. 101-649, § 407(c)(15), (d)(12)(C), substituted “application” for “petition” in first sentence, and struck out “(1)” before “he shall have attained”, “and (2) he shall have first filed an application therefor at an office of the Service in the form and manner pre-

scribed by the Attorney General” after “eighteen years”, and “petition for” after “An application for”.

Subsecs. (c) to (e). Pub. L. 101-649, § 407(d)(12)(F), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which related to time to file, substitute filing place, and investigation into reasons for substitute filing place, respectively.

Subsecs. (f), (g). Pub. L. 101-649, § 407(c)(15), (d)(12)(D), (E), redesignated subsec. (f) as (g), substituted “An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.” for “Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe.”, and substituted “an application” for “a petition” in last sentence.

1981—Subsec. (a). Pub. L. 97-116 struck out “and duly verified by two witnesses,” after “able to write,”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 305(d), (e) of 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.

Pub. L. 102-232, title III, § 305(m), Dec. 12, 1991, 105 Stat. 1750, provided that the amendment made by section 305(m) is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101-649.

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.

§ 1446. Investigation of applicants; examination of applications

(a) Waiver

Before a person may be naturalized, an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person applying for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his application for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) Conduct of examinations; authority of designees; record

The Attorney General shall designate employees of the Service to conduct examinations upon

applications for naturalization. For such purposes any such employee so designated is authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any applicant for naturalization, to administer oaths, including the oath of the applicant for naturalization, and to require by subpoena the attendance and testimony of witnesses, including applicant, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any district court of the United States; and any such court may, in the event of neglect or refusal to respond to a subpoena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the examination authorized by this subsection shall be admissible as evidence in any hearing conducted by an immigration officer under section 1447(a) of this title. Any such employee shall, at the examination, inform the applicant of the remedies available to the applicant under section 1447 of this title.

(c) Transmittal of record of examination

The record of the examination upon any application for naturalization may, in the discretion of the Attorney General be transmitted to the Attorney General and the determination with respect thereto of the employee designated to conduct such examination shall when made also be transmitted to the Attorney General.

(d) Determination to grant or deny application

The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

(e) Withdrawal of application

After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

(f) Transfer of application

An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district

of the Service to which the application is transferred.

(June 27, 1952, ch. 477, title III, ch. 2, §335, 66 Stat. 255; Pub. L. 97-116, §15(c), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100-525, §9(aa), (bb), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, §§401(c), 407(c)(16), (d)(13), Nov. 29, 1990, 104 Stat. 5038, 5041, 5043; Pub. L. 102-232, title III, §305(f), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-232 substituted “district court” for “District Court”.

1990—Pub. L. 101-649, §407(d)(13)(A), substituted “Investigation of applicants; examination of applications” for “Investigation of petitioners” in section catchline.

Subsec. (a). Pub. L. 101-649, §407(c)(16), (d)(13)(B), substituted “Before a person may be naturalized” for “At any time prior to the holding of the final hearing on a petition for naturalization provided for by section 1447(a) of this title”, “applying” for “petitioning”, and “application” for “petition”.

Subsec. (b). Pub. L. 101-649, §407(c)(16), (d)(13)(C), substituted “applications” for “petitions” and “applicant” for “petitioner” wherever appearing, struck out “preliminary” before “examinations” and before “examination”, struck out “to any naturalization court and to make recommendations thereon to such court” before period at end of first sentence, substituted “any District Court of the United States” for “any court exercising naturalization jurisdiction as specified in section 1421 of this title”, and substituted “hearing conducted by an immigration officer under section 1447(a) of this title” for “final hearing conducted by a naturalization court designated in section 1421 of this title”.

Pub. L. 101-649, §401(c), inserted at end “Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 1447 of this title.”

Subsec. (c). Pub. L. 101-649, §407(c)(16), (d)(13)(D), struck out “preliminary” before “examination” wherever appearing, and substituted “determination” for “recommendation” and “application” for “petition”.

Subsecs. (d) to (f). Pub. L. 101-649, §407(d)(13)(E), amended subsecs. (d) to (f) generally, substituting provisions relating to determinations, withdrawal of application, and transfer of application, for provisions relating to recommendations, withdrawal of petition, and transfer of petition, respectively.

1988—Subsec. (d). Pub. L. 100-525, §9(aa), substituted “approves” for “approve” in fourth sentence.

Subsec. (f)(2). Pub. L. 100-525, §9(bb), struck out before period at end “, except that the court to which the petition is transferred may in its discretion, require the production of two credible United States citizen witnesses to testify as to the petitioner’s qualifications for naturalization since the date of such transfer”.

1981—Subsec. (b). Pub. L. 97-116, §15(c)(1), struck out “and the oaths of petitioner’s witnesses to the petition for naturalization” after “oath of the petitioner for naturalization”.

Subsec. (f). Pub. L. 97-116, §15(c)(2), (3), redesignated subsec. (i) as (f) and struck out former subsec. (f) which required affidavits of at least two credible witnesses, citizens of the United States, concerning the residency and the good moral character, etc., of the petitioner.

Subsec. (g). Pub. L. 97-116, §15(c)(2), struck out subsec. (g) which related to proof of residence at the hearing on the petition.

Subsec. (h). Pub. L. 97-116, §15(c)(2), struck out subsec. (h) which related to satisfactory evidence as to good moral character, etc., at the hearing on the petition.

Subsec. (i). Pub. L. 97-116, §15(c)(3), redesignated subsec. (i) as (f).

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.

CRIMINAL BACKGROUND CHECKS

Pub. L. 105-119, title I, Nov. 26, 1997, 111 Stat. 2448, provided in part: "That during fiscal year 1998 and each fiscal year thereafter, none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service shall be used to complete adjudication of an application for naturalization unless the Immigration and Naturalization Service has received confirmation from the Federal Bureau of Investigation that a full criminal background check has been completed, except for those exempted by regulation as of January 1, 1997".

§ 1447. Hearings on denials of applications for naturalization

(a) Request for hearing before immigration officer

If, after an examination under section 1446 of this title, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

(b) Request for hearing before district court

If there is a failure to make a determination under section 1446 of this title before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

(c) Appearance of Attorney General

The Attorney General shall have the right to appear before any immigration officer in any naturalization proceedings for the purpose of cross-examining the applicant and the witnesses produced in support of the application concerning any matter touching or in any way affecting the applicant's right to admission to citizenship, and shall have the right to call witnesses, including the applicant, produce evidence, and be heard in opposition to, or in favor of the granting of any application in naturalization proceedings.

(d) Subpoena of witnesses

The immigration officer shall, if the applicant requests it at the time of filing the request for the hearing, issue a subpoena for the witnesses named by such applicant to appear upon the day set for the hearing, but in case such witnesses cannot be produced upon the hearing other witnesses may be summoned upon notice to the Attorney General, in such manner and at such time as the Attorney General may by regulation

prescribe. Such subpoenas may be enforced in the same manner as subpoenas under section 1446(b) of this title may be enforced.

(e) Change of name

It shall be lawful at the time and as a part of the administration by a court of the oath of allegiance under section 1448(a) of this title for the court, in its discretion, upon the bona fide prayer of the applicant included in an appropriate petition to the court, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith.

(June 27, 1952, ch. 477, title III, ch. 2, § 336, 66 Stat. 257; Pub. L. 91-136, Dec. 5, 1969, 83 Stat. 283; Pub. L. 97-116, § 15(d), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100-525, § 9(cc), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, § 407(c)(17), (d)(14), Nov. 29, 1990, 104 Stat. 5041, 5044; Pub. L. 102-232, title III, § 305(g), (h), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsecs. (d), (e). Pub. L. 102-232, § 305(g), (h), amended Pub. L. 101-649, § 407(d)(14)(D)(i), (E)(ii), respectively. See 1990 Amendment note below.

1990—Pub. L. 101-649, § 407(d)(14)(A), amended section catchline generally.

Subsecs. (a), (b). Pub. L. 101-649, § 407(d)(14)(B), amended subsecs. (a) and (b) generally, substituting provisions relating to requests for hearing upon denial of application and failure to make determination, for provisions relating to holding of hearing in open court and exceptions to same, respectively.

Subsec. (c). Pub. L. 101-649, § 407(c)(17), (d)(14)(C), substituted "immigration officer" for "court" and references to applicant, applicant's, and application for references to petitioner, petitioner's, and petition wherever appearing.

Subsec. (d). Pub. L. 101-649, § 407(d)(14)(D)(i), as amended by Pub. L. 102-232, § 305(g), substituted "immigration officer shall, if the applicant requests it at the time of filing the request for the hearing" for "clerk of court shall, if the petitioner requests it at the time for filing the petition for naturalization".

Pub. L. 101-649, § 407(c)(17), (d)(14)(D)(ii), (iii), substituted "applicant" for "petitioner", struck out "final" before "hearing" wherever appearing, and inserted at end "Such subpoenas may be enforced in the same manner as subpoenas under section 1446(b) of this title may be enforced."

Subsec. (e). Pub. L. 101-649, § 407(d)(14)(E)(i), substituted "administration by a court of the oath of allegiance under section 1448(a) of this title" for "naturalization of any person,".

Pub. L. 101-649, § 407(d)(14)(E)(ii), as amended by Pub. L. 102-232, § 305(h), substituted "included in an appropriate petition to the court" for "included in the petition for naturalization of such person".

Pub. L. 101-649, § 407(c)(17), substituted "applicant" for "petitioner".

1988—Pub. L. 100-525 amended section catchline.

1981—Subsec. (a). Pub. L. 97-116, § 15(d)(1), struck out "and the witnesses" after "such petition the petitioner".

Subsec. (b). Pub. L. 97-116, § 15(d)(1), struck out "and the witnesses" after "examination of the petitioner" in two places.

Subsec. (c). Pub. L. 97-116, § 15(d)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which prescribed a waiting period of thirty days after the filing of a petition for naturalization for the holding of a final hearing and permitted waiver of such period by the Attorney General if he determined that a waiver was in the public interest.

Subsec. (d). Pub. L. 97-116, § 15(3), (4), redesignated subsec. (e) as (d) and struck out provision permitting