

§ 1440-1. Posthumous citizenship through death while on active-duty service in armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities

(a) Permitting granting of posthumous citizenship

Notwithstanding any other provision of this subchapter, the Secretary of Homeland Security shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the Secretary of Homeland Security approves an application for that posthumous citizenship under subsection (c).

(b) Noncitizens eligible for posthumous citizenship

A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States—

- (1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 1440(a) of this title,
- (2) died as a result of injury or disease incurred in or aggravated by that service, and
- (3) satisfied the requirements of clause (1) or (2) of the first sentence of section 1440(a) of this title.

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

(c) Requests for posthumous citizenship

(1) In general

A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of that person—

- (A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or
- (B) by the next-of-kin.

(2) Approval

The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

- (A) the request is filed not later than 2 years after—
 - (i) November 24, 2003; or
 - (ii) the date of the person's death;

whichever date is later;

(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

(C) the Director finds that the person satisfied the requirement of subsection (b)(3).

(d) Documentation of posthumous citizenship

If the Director of the Bureau of Citizenship and Immigration Services approves the request

referred to in subsection (c), the Director shall send to the next-of-kin of the person who is granted citizenship, a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

(June 27, 1952, ch. 477, title III, ch. 2, §329A, as added Pub. L. 101-249, §2(a), Mar. 6, 1990, 104 Stat. 94; Pub. L. 107-273, div. C, title I, §11030(b), Nov. 2, 2002, 116 Stat. 1836; Pub. L. 108-136, div. A, title XVII, §§1703(g), 1704, Nov. 24, 2003, 117 Stat. 1695, 1696.)

CODIFICATION

November 24, 2003, referred to in subsec. (c)(2)(A)(i), was in the original "the date of enactment of this section", which was translated as meaning the date of enactment of Pub. L. 108-136, which enacted subsec. (c) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §1703(g)(2), substituted "Secretary of Homeland Security" for "Attorney General" in two places.

Subsec. (c). Pub. L. 108-136, §1704(1), added heading and text of subsec. (c) and struck out former subsec. (c) which related to procedures for approval by the Attorney General of a request for the granting of posthumous citizenship.

Subsec. (d). Pub. L. 108-136, §1704(2), added heading and text of subsec. (d) and struck out former subsec. (d) which read as follows: "If the Attorney General approves such a request to grant a person posthumous citizenship, the Attorney General shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death."

Subsec. (e). Pub. L. 108-136, §1703(g)(1), struck out heading and text of subsec. (e). Text read as follows: "Nothing in this section or section 1430(d) of this title shall be construed as providing for any benefits under this chapter for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section."

2002—Subsec. (c)(1)(A). Pub. L. 107-273 substituted "November 2, 2002," for "March 6, 1990,".

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-136 effective as if enacted Sept. 11, 2001, see section 1705 of Pub. L. 108-136, set out in a note under section 1439 of this title.

§§ 1440a to 1440d. Omitted

CODIFICATION

Sections, act June 30, 1953, ch. 162, §§1-4, 67 Stat. 108-110, which authorized naturalization of persons who served in the Armed Forces after June 29, 1950, and not later than July 1, 1955, were omitted as obsolete, since the provisions of section 1 of act June 30, 1953, required the petition for naturalization to be filed not later than December 31, 1955. See sections 1440 and 1440e of this title.

§ 1440e. Exemption from naturalization fees for aliens naturalized through service during Vietnam hostilities or other subsequent period of military hostilities; report by clerks of courts to Attorney General

Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect a naturalization fee from an alien who has served in the military, air, or naval forces of the United States during a period beginning