and Administrative Services Act of 1949 [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts], the Attorney General was authorized for period of up to two years after effective date of legalization program, to expend from appropriation provided for administration and enforcement of this chapter, such amounts necessary for leasing or acquisition of property in fulfillment of section 201 of Pub. L. 99–603, which enacted this section and amended sections 602, 672, and 673 of Title 42, The Public Health and Welfare.

USE OF RETIRED FEDERAL EMPLOYEES

Pub. L. 99–603, title II, § 201(c)(2), Nov. 6, 1986, 100 Stat. 3403, as amended by Pub. L. 100–525, § 2(h)(2), Oct. 24, 1988, 102 Stat. 2612, provided that: ''Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the pay and annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section [enacting this section and amending sections 602, 672, and 673 of Title 42, The Public Health and Welfare]. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.''

CUBAN-HAITIAN ADJUSTMENT

Pub. L. 99–603, title II, § 202, Nov. 6, 1986, 100 Stat. 3404, as amended by Pub. L. 100–525, § 2(i), Oct. 24, 1988, 102 Stat. 2612, provided that the status of an alien who received an immigration designation as a Cuban/Haitian Entrant as of Nov. 6, 1986, or who was a national of Cuba or Haiti, who arrived in the United States before Jan. 1, 1982, could be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if the alien applied for such adjustment within two years after Nov. 6, 1986, and met certain other eligibility requirements.

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

Pub. L. 99–603, title II, § 204, Nov. 6, 1986, 100 Stat. 3405, as amended by Pub. L. 100–525, § 2(k), Oct. 24, 1988, 102 Stat. 2612; Pub. L. 101–166, title II, Nov. 21, 1989, 103 Stat. 1174; Pub. L. 101–238, § 6(a), Dec. 18, 1989, 103 Stat. 2104; Pub. L. 101–517, title II, Nov. 5, 1990, 104 Stat. 2206; Pub. L. 102–170, title II, Nov. 26, 1991, 105 Stat. 1124; Pub. L. 102–394, title II, Oct. 6, 1992, 106 Stat. 1808; Pub. L. 103–333, title II, Sept. 30, 1994, 108 Stat. 2558; Pub. L. 103–416, title II, § 219(cc), Oct. 25, 1994, 108 Stat. 4319; Pub. L. 104–208, div. C, title VI, § 671(b)(9), (d)(2), Sept. 30, 1996, 110 Stat. 3009–722, 3009–723, related to State legalization impact-assistance grants and appropriation of funds, prior to repeal by Pub. L. 105–220, title I, § 199(a)(1), Aug. 7, 1998, 112 Stat. 1058.

APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS

Pub. L. 99–603, title III, § 303(c), Nov. 6, 1986, 100 Stat. 3431, defined ''eligible legalized alien'' relative to State legalization assistance, prior to repeal by Pub. L. 100–525, § 2(n)(3), Oct. 24, 1988, 102 Stat. 2613.

REPORTS ON LEGALIZATION PROGRAM

Pub. L. 99–603, title IV, § 404, Nov. 6, 1986, 100 Stat. 3442, provided that the President would transmit to Congress two reports on the legalization program established under this section, one describing legalized aliens and the second on the impact on State and local government, employment, and social welfare and medical needs.

§ 1255b. Adjustment of status of certain nonimmigrants to that of persons admitted for permanent residence

Notwithstanding any other provision of law—

(a) Application

Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(A)(i), (ii), (G)(i), (ii)], who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) Record of admission

If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for adjustment of status is made.

(c) Report to the Congress; resolution not favoring adjustment of status; reduction of quota

A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. The Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act [8 U.S.C. 1152] for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

(d) Limitations

The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.

(Pub. L. 85–316, § 13, Sept. 11, 1957, 71 Stat. 642; Pub. L. 97–116, § 17, Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100–525, § 9(kk), Oct. 24, 1988, 102 Stat. 2622; Pub. L. 103–416, title II, § 207, Oct. 25, 1994, 108 Stat. 4312; Pub. L. 104–208, div. C, title VI, § 671(b)(4), Sept. 30, 1996, 110 Stat. 3009–721.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b), is act June 27, 1952, ch. 477, 66 Stat. 163, as

amended, 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.

CODIFICATION

Section was not enacted as a part of the Immigration and Nationality Act which comprises this chapter.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 made technical amendment to directory language of Pub. L. 103–416, § 207(2). See 1994 Amendment note below.

1994—Subsec. (c). Pub. L. 103–416, § 207(1), struck out after second sentence ''If, during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law.''

Pub. L. 103–416, § 207(2), as amended by Pub. L. 104–208, substituted ''The'' for ''If neither the Senate nor the House of Representatives passes such a resolution within the time above specified, the''.

1988—Subsec. (b). Pub. L. 100–525 struck out ''of'' after ''as of the date''.

1981—Subsec. (b). Pub. L. 97–116 inserted provision requiring that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103–416, see section 671(b)(14) of Pub. L. 104–208, 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.

DEFINITIONS; APPLICABILITY OF SECTION 1101(a) AND (b) OF THIS TITLE

The definitions in subsecs. (a) and (b) of section 1101 of this title apply to this section, see section 14 of Pub. L. 85–316, set out as a note under section 1101 of this title.

§ 1256. Rescission of adjustment of status; effect upon naturalized citizen

(a) If, at any time within five years after the status of a person has been otherwise adjusted under the provisions of section 1255 or 1259 of this title or any other provision of law to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling removal in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made. Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 1229a of this title, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.

(b) Any person who has become a naturalized citizen of the United States upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which such person was not in fact eligible, and which is subsequently rescinded under subsection (a) of this section, shall be subject to the provisions of section 1451 of this title as a person whose naturalization was procured by concealment of a material fact or by willful misrepresentation.

(June 27, 1952, ch. 477, title II, ch. 5, § 246, 66 Stat. 217; Pub. L. 103–416, title II, § 219(m), Oct. 25, 1994, 108 Stat. 4317; Pub. L. 104–208, div. C, title III, §§ 308(e)(1)(H), 378(a), Sept. 30, 1996, 110 Stat. 3009–619, 3009–649.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, ''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

1996—Subsec. (a). Pub. L. 104–208, § 378(a), inserted at end ''Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 1229a of this title, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.''

Pub. L. 104–208, § 308(e)(1)(H), substituted ''removal'' for ''deportation''.

1994—Subsec. (a). Pub. L. 103–416 struck out first three sentences which read as follows: ''If, at any time within five years after the status of a person has been adjusted under the provisions of section 1254 of this title or under section 19(c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made.''