

concerning the requirement of paragraph (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(2)) with respect to the naturalization of any person described in paragraph (1), (2), or (3) of section 2 of this Act.

“SEC. 4. DOCUMENTATION OF QUALIFYING SERVICE.

“A person seeking an exemption under section 2 or special consideration under section 3 shall submit to the Attorney General documentation of their, or their spouse’s, service with a special guerrilla unit, or irregular forces, described in section 2(1)(B), in the form of—

“(1) original documents;

“(2) an affidavit of the serving person’s superior officer;

“(3) two affidavits from other individuals who also were serving with such a special guerrilla unit, or irregular forces, and who personally knew of the person’s service; or

“(4) other appropriate proof.

“SEC. 5. DETERMINATION OF ELIGIBILITY FOR EXEMPTION AND SPECIAL CONSIDERATION.

“(a) In determining a person’s eligibility for an exemption under section 2 or special consideration under section 3, the Attorney General—

“(1) shall review the refugee processing documentation for the person, or, in an appropriate case, for the person and the person’s spouse, to verify that the requirements of section 2 relating to refugee applications and admissions have been satisfied;

“(2) shall consider the documentation submitted by the person under section 4;

“(3) may request an advisory opinion from the Secretary of Defense regarding the person’s, or their spouse’s, service in a special guerrilla unit, or irregular forces, described in section 2(1)(B); and

“(4) may consider any documentation provided by organizations maintaining records with respect to Hmong veterans or their families.

“(b) The Secretary of Defense shall provide any opinion requested under paragraph (3) to the extent practicable, and the Attorney General shall take into account any opinion that the Secretary of Defense is able to provide.

“SEC. 6. DEADLINE FOR APPLICATION AND PAYMENT OF FEES.

“This Act shall apply to a person only if the person’s application for naturalization is filed, as provided in section 334 of the Immigration and Nationality Act (8 U.S.C. 1445), with appropriate fees not later than 36 months after the date of the enactment of this Act [May 26, 2000]. In the case of a person described in section 2(3), the application referred to in the preceding sentence, and appropriate fees, shall be filed not later than 36 months after the date of the enactment of this sentence [Nov. 1, 2000].

“SEC. 7. LIMITATION ON NUMBER OF BENEFICIARIES.

“Notwithstanding any other provision of this Act, the total number of aliens who may be granted an exemption under section 2 or special consideration under section 3, or both, may not exceed 45,000.”

§ 1424. Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government

(a) Notwithstanding the provisions of section 405(b) of this Act, no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B)

any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organization or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or

(D) sabotage; or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5) of this subsection.

(b) The provisions of this section or of any other section of this chapter shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this chapter do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the application for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the application is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) if such person establishes that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes.

(e) A person may be naturalized under this subchapter without regard to the prohibitions in subsections (a)(2) and (c) of this section if the person—

- (1) is otherwise eligible for naturalization;
- (2) is within the class described in subsection (a)(2) solely because of past membership in, or past affiliation with, a party or organization described in that subsection;
- (3) does not fall within any other of the classes described in that subsection; and
- (4) is determined by the Director of Central Intelligence, in consultation with the Secretary of Defense when Department of Defense activities are relevant to the determination, and with the concurrence of the Attorney General and the Secretary of Homeland Security, to have made a contribution to the national security or to the national intelligence mission of the United States.

(June 27, 1952, ch. 477, title III, ch. 2, § 313, 66 Stat. 240; Pub. L. 100-525, § 9(u), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, § 407(c)(1), Nov. 29, 1990, 104 Stat. 5041; Pub. L. 102-232, title III, § 309(b)(13), Dec. 12, 1991, 105 Stat. 1759; Pub. L. 103-416, title II, § 219(v), Oct. 25, 1994, 108 Stat.

4318; Pub. L. 106-120, title III, § 306, Dec. 3, 1999, 113 Stat. 1612; Pub. L. 108-177, title III, § 373, Dec. 13, 2003, 117 Stat. 2628.)

Editorial Notes

REFERENCES IN TEXT

Section 405(b) of this Act, referred to in subsec. (a), is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

This chapter, referred to in subsec. (b), 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

2003—Subsec. (e)(4). Pub. L. 108-177 inserted “when Department of Defense activities are relevant to the determination” after “Secretary of Defense” and “and the Secretary of Homeland Security” after “Attorney General”.

1999—Subsec. (e). Pub. L. 106-120 added subsec. (e).

1994—Subsec. (a)(2). Pub. L. 103-416 substituted “or” for “and” before “(F)”.

1991—Subsec. (a)(2). Pub. L. 102-232 inserted “and” before “(F)” and struck out “; (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 786 of title 50; or (H) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-front organization during the time it is registered or required to be registered under section 786 of title 50” after “may hereafter adopt”.

1990—Subsec. (c). Pub. L. 101-649 substituted “application” for “petition” wherever appearing.

1988—Subsec. (a)(2)(D). Pub. L. 100-525 substituted “party of” for “party or”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title II, § 219(v), Oct. 25, 1994, 108 Stat. 4318, provided that the amendment made by that section is effective Dec. 12, 1991.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, 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.

§ 1425. Ineligibility to naturalization of deserters from the Armed Forces

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.

(June 27, 1952, ch. 477, title III, ch. 2, §314, 66 Stat. 241.)

§ 1426. Citizenship denied alien relieved of service in Armed Forces because of alienage

(a) Permanent ineligibility

Notwithstanding the provisions of section 405(b)¹ but subject to subsection (c), any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) Conclusiveness of records

The records of the Selective Service System or of the Department of Defense shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

(c) Service in armed forces of foreign country

An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.

(June 27, 1952, ch. 477, title III, ch. 2, §315, 66 Stat. 242; Pub. L. 100-525, §9(v), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, §404, Nov. 29, 1990, 104 Stat. 5039.)

Editorial Notes

REFERENCES IN TEXT

Section 405(b), referred to in subsec. (a), is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-649, §404(1), inserted “but subject to subsection (c)” after “section 405(b)”.

¹ See References in Text note below.

Subsec. (c). Pub. L. 101-649, §404(2), added subsec. (c). 1988—Subsec. (b). Pub. L. 100-525 substituted “Department of Defense” for “National Military Establishment”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-649 applicable to exemptions from training or service obtained before, on, or after Nov. 29, 1990, see section 408(e) of Pub. L. 101-649, set out as a note under section 1421 of this title.

§ 1427. Requirements of naturalization

(a) Residence

No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time, and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months, (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absences

Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the application for naturalization, or during the period between the date of filing the application and the date of any hearing under section 1447(a) of this title, shall break the continuity of such residence, unless the applicant shall establish to the satisfaction of the Attorney General that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the application for naturalization) shall break the continuity of such residence, except that in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or