

115TH CONGRESS
1ST SESSION

H. R. 4184

To adjust the immigration status of certain foreign nationals in temporary protected status who are in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2017

Mr. CURBELO of Florida (for himself, Mr. HASTINGS, Ms. ROS-LEHTINEN, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To adjust the immigration status of certain foreign nationals in temporary protected status who are in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Extending Status Pro-
5 tection for Eligible Refugees with Established Residency
6 Act of 2017” or as the “ESPERER Act of 2017”.

7 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NA-**
8 **TIONALS.**

9 (a) ADJUSTMENT OF STATUS.—

1 (1) IN GENERAL.—Notwithstanding section
2 245(c) of the Immigration and Nationality Act (8
3 U.S.C. 1255(c)), the status of any alien described in
4 subsection (b) shall be adjusted by the Secretary of
5 Homeland Security to that of an alien lawfully ad-
6 mitted for permanent residence, if the alien—

7 (A) applies for such adjustment before
8 January 1, 2021;

9 (B) is not inadmissible under paragraph
10 (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A),
11 (10)(C), or (10)(D) of section 212(a) of the Im-
12 migration and Nationality Act (8 U.S.C.
13 1182(a));

14 (C) is not deportable under paragraph
15 (1)(E), (1)(G), (2), (4), (5), or (6) of section
16 237(a) of such Act (8 U.S.C. 1227(a));

17 (D) has not ordered, incited, assisted, or
18 otherwise participated in the persecution of any
19 person on account of race, religion, nationality,
20 membership in a particular social group, or po-
21 litical opinion; and

22 (E) has not been convicted of—

23 (i) any offense under Federal or State
24 law punishable by a maximum term of im-
25 prisonment of more than 1 year; or

1 (ii) three or more offenses under Fed-
2 eral or State law, for which the alien was
3 convicted on different dates for each of the
4 3 offenses and sentenced to imprisonment
5 for an aggregate of 90 days or more.

6 (2) RELATIONSHIP OF APPLICATION TO CER-
7 TAIN ORDERS.—An alien present in the United
8 States who has been ordered removed, or ordered to
9 depart voluntarily, from the United States under
10 any provision of the Immigration and Nationality
11 Act may, notwithstanding such order, apply for ad-
12 justment of status under paragraph (1). Such an
13 alien may not be required, as a condition on submit-
14 ting or granting such application, to file a motion to
15 reopen, reconsider, or vacate such order. If the Sec-
16 retary of Homeland Security grants the application,
17 the Secretary of Homeland Security shall cancel the
18 order. If the Secretary of Homeland Security ren-
19 ders a final administrative decision to deny the ap-
20 plication, the order shall be effective and enforceable
21 to the same extent as if the application had not been
22 made.

23 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
24 TUS.—The benefits provided by subsection (a) shall apply
25 to any alien—

1 (1) who is a national of Haiti, Nicaragua, El
2 Salvador, or Honduras;

3 (2) who is in temporary protected status under
4 section 244 of the Immigration and Nationality Act
5 (8 U.S.C. 1254a)—

6 (A) on January 13, 2011; and

7 (B) on the date of the application for ad-
8 justment of status under this Act is filed;

9 (3) who was physically present in the United
10 States on January 12, 2011; and

11 (4) who has been physically present in the
12 United States for at least 1 year and is physically
13 present in the United States on the date the applica-
14 tion for adjustment of status under this Act is filed,
15 except an alien shall not be considered to have failed
16 to maintain continuous physical presence by reason
17 of an absence, or absences, from the United States
18 for any periods in the aggregate not exceeding 180
19 days.

20 (c) STAY OF REMOVAL.—

21 (1) IN GENERAL.—The Secretary of Homeland
22 Security shall provide by regulation for an alien sub-
23 ject to a final order of removal to seek a stay of
24 such order based on the filing of an application
25 under subsection (a).

1 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
2 standing any provision of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101 et seq.), the Secretary
4 of Homeland Security shall not order any alien to be
5 removed from the United States, if the alien is in re-
6 moval proceedings under any provision of such Act
7 and raises as a defense to such an order the eligi-
8 bility of the alien to apply for adjustment of status
9 under subsection (a), except where the Secretary of
10 Homeland Security has rendered a final administra-
11 tive determination to deny the application.

12 (3) WORK AUTHORIZATION.—The Secretary of
13 Homeland Security may authorize an alien who has
14 applied for adjustment of status under subsection
15 (a) to engage in employment in the United States
16 during the pendency of such application and may
17 provide the alien with a “work authorized” endorse-
18 ment or other appropriate document signifying au-
19 thorization of employment, except that if such appli-
20 cation is pending for a period exceeding 180 days,
21 and has not been denied, the Secretary of Homeland
22 Security shall authorize such employment.

23 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
24 CHILDREN.—

1 (1) IN GENERAL.—Notwithstanding section
2 245(c) of the Immigration and Nationality Act (8
3 U.S.C. 1255(c)), the status of an alien shall be ad-
4 justed by the Secretary of Homeland Security to
5 that of an alien lawfully admitted for permanent res-
6 idence, if—

7 (A) the alien is the spouse, child, or un-
8 married son or daughter, of an alien whose sta-
9 tus is adjusted to that of an alien lawfully ad-
10 mitted for permanent residence under sub-
11 section (a), except that in the case of such an
12 unmarried son or daughter, the son or daughter
13 shall be required to establish that they have
14 been physically present in the United States for
15 at least 1 year;

16 (B) the alien applies for such adjustment
17 and is physically present in the United States
18 on the date the application is filed; and

19 (C) the alien is otherwise eligible to receive
20 an immigrant visa and is otherwise admissible
21 to the United States for permanent residence,
22 except in determining such admissibility the
23 grounds for exclusion specified in paragraphs
24 (4), (5), (6)(A), and (7)(A) of section 212(a) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1182(a)) shall not apply.

3 (2) PROOF OF CONTINUOUS PRESENCE.—For
4 purposes of establishing the period of continuous
5 physical presence referred to in paragraph (1)(B),
6 an alien shall not be considered to have failed to
7 maintain continuous physical presence by reason of
8 an absence, or absences, from the United States for
9 any periods in the aggregate not exceeding 180
10 days.

11 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
12 The Secretary of Homeland Security shall provide to ap-
13 plicants for adjustment of status under subsection (a) the
14 same right to, and procedures for, administrative review
15 as are provided to—

16 (1) applicants for adjustment of status under
17 section 245 of the Immigration and Nationality Act
18 (8 U.S.C. 1255); or

19 (2) aliens subject to removal proceedings under
20 section 240 of such Act (8 U.S.C. 1229a).

21 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-
22 mination by the Secretary of Homeland Security as to
23 whether the status of any alien should be adjusted under
24 this Act is final and shall not be subject to review by any
25 court.

1 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

2 When an alien is granted the status of having been law-
3 fully admitted for permanent residence pursuant to this
4 Act, the Secretary of State shall not reduce the number
5 of immigrant visas authorized to be issued under any pro-
6 vision of the Immigration and Nationality Act.

7 (h) APPLICATION OF IMMIGRATION AND NATION-
8 ALITY ACT PROVISIONS.—Except as otherwise specifically
9 provided in this section, the definitions contained in the
10 Immigration and Nationality Act shall apply in the admin-
11 istration of this Act. Nothing contained in this Act shall
12 be held to repeal, amend, alter, modify, effect, or restrict
13 the powers, duties, functions, or authority of the Secretary
14 of Homeland Security in the administration and enforce-
15 ment of such Act or any other law relating to immigration,
16 nationality, or naturalization. The fact that an alien may
17 be eligible to be granted the status of having been lawfully
18 admitted for permanent residence under this section shall
19 not preclude the alien from seeking such status under any
20 other provision of law for which the alien may be eligible.

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