

Visa Reform Act and the Consolidated Appropriations Act, 2005, and not as part of the Immigration and Nationality Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 8, 2004, see section 430 of Pub. L. 108-447, set out as an Effective Date of 2004 Amendment note under section 1182 of this title.

§ 1382. Acceptance and administration of gifts for immigration integration grants program

The Director of U.S. Citizenship and Immigration Services is authorized in fiscal year 2017, and in each fiscal year thereafter, to solicit, accept, administer, and utilize gifts, including donations of property, for the purpose of providing an immigrant integration grants program and related activities to promote citizenship and immigrant integration: *Provided*, That all sums received under this subsection shall be deposited in a separate account in the general fund of the Treasury to be known as the “Citizenship Gift and Bequest Account”: *Provided further*, That all funds deposited into the Citizenship Gift and Bequest Account shall remain available until expended, and shall be available in addition to any funds appropriated or otherwise made available for an immigrant integration grants program or other activities to promote citizenship and immigrant integration.

(Pub. L. 115-31, div. F, title IV, §404(c), May 5, 2017, 131 Stat. 422.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of Homeland Security Appropriations Act, 2017, and also as part of the Consolidated Appropriations Act, 2017, and not as part of the Immigration and Nationality Act which comprises this chapter.

SUBCHAPTER III—NATIONALITY AND NATURALIZATION

PART I—NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION

§ 1401. Nationals and citizens of United States at birth

The following shall be nationals and citizens of the United States at birth:

(a) a person born in the United States, and subject to the jurisdiction thereof;

(b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States

who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

(g) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 288 of title 22 by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 288 of title 22, may be included in order to satisfy the physical-presence requirement of this paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date; and

(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.

(June 27, 1952, ch. 477, title III, ch. 1, §301, 66 Stat. 235; Pub. L. 89-770, Nov. 6, 1966, 80 Stat. 1322; Pub. L. 92-584, §§1, 3, Oct. 27, 1972, 86 Stat. 1289; Pub. L. 95-432, §§1, 3, Oct. 10, 1978, 92 Stat. 1046; Pub. L. 99-653, §12, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 103-416, title I, §101(a), Oct. 25, 1994, 108 Stat. 4306.)

Editorial Notes

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court.

AMENDMENTS

1994—Subsec. (h). Pub. L. 103-416 added subsec. (h).

1986—Subsec. (g). Pub. L. 99-653 substituted “five years, at least two” for “ten years, at least five”.

1978—Subsec. (a). Pub. L. 95-432, §3, struck out “(a)” before “The following” and redesignated pars. (1) to (7) as (a) to (g), respectively.

Subsec. (b). Pub. L. 95-432, §1, struck out subsec. (b) which provided that any person who was a national or citizen of the United States under subsec. (a)(7) lose his nationality or citizenship unless he be continuously physically present in the United States for a period of not less than two years between the ages of 14 and 28 or that the alien parent be naturalized while the child was under 18 years of age and the child began permanent residence in the United States while under 18 years of age and that absence from the United States of less than 60 days not break the continuity of presence.

Subsec. (c). Pub. L. 95-432, §1, struck out subsec. (c) which provided that former subsec. (b) apply to persons born abroad subsequent to May 24, 1934, except that this not be construed to alter the citizenship of any person born abroad subsequent to May 24, 1934 who, prior to the effective date of this chapter, had taken up residence in the United States before attaining 16 years of age, and thereafter, whether before or after the effective date of this chapter, complied with the residence requirements of section 201(g) and (h) of the Nationality Act of 1940.

Subsec. (d). Pub. L. 95-432, §1, struck out subsec. (d) which provided that nothing in former subsec. (b) be construed to alter the citizenship of any person who came into the United States prior to Oct. 27, 1972, and who, whether before or after Oct. 27, 1972, immediately following such coming complied with the physical presence requirements for retention of citizenship specified in former subsec. (b), prior to amendment of former subsec. (b) by Pub. L. 92-584.

1972—Subsec. (b). Pub. L. 92-584, §1, substituted provisions that nationals and citizens of the United States under subsec. (a)(7), lose such status unless they are present continuously in the United States for two years between the ages of fourteen and twenty eight years, or the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years, and that absence from the United States of less than sixty days will not break the continuity of presence, for provisions that such status would be lost unless the nationals and citizens come to the United States prior to attaining twenty three years and be present continuously in the United States for five years, and that such presence should be between the age of fourteen and twenty eight years.

Subsec. (d). Pub. L. 92-584, §3, added subsec. (d).

1966—Subsec. (a)(7). Pub. L. 89-770 authorized periods of employment with the United States Government or with an international organization by the citizen parent, or any periods during which the citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization, to be included in order to satisfy the physical presence requirement, and permitted the proviso to be applicable to persons born on or after December 24, 1952.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-653, §23(d), as added by Pub. L. 100-525, §8(r), Oct. 24, 1988, 102 Stat. 2619, provided that: “The amendment made by section 12 [amending this section] shall apply to persons born on or after November 14, 1986.”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-432, §1, Oct. 10, 1978, 92 Stat. 1046, provided that the amendment made by section 1 is effective Oct. 10, 1978.

EFFECTIVE DATE

Chapter 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.

WAIVER OF RETENTION REQUIREMENTS

Pub. L. 103-416, title I, §101(b), Oct. 25, 1994, 108 Stat. 4306, provided that: “Any provision of law (including section 301(b) of the Immigration and Nationality Act [8 U.S.C. 1401(b)] (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940 [former 8 U.S.C. 601(g)]) that provided for a person’s loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person’s descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).”

RETROACTIVE APPLICATION OF 1994 AMENDMENT

Pub. L. 103-416, title I, §101(c), Oct. 25, 1994, 108 Stat. 4306, provided that:

“(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act [Oct. 25, 1994]) as though the amendment made by subsection (a) [amending this section], and subsection (b) [enacting provisions set out above], had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes [former 8 U.S.C. 6] (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

“(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 [former 50 U.S.C. App. 1951 et seq.] or under section 14 of the Refugee Relief Act of 1953 [former 50 U.S.C. App. 1971].”

APPLICABILITY OF TRANSMISSION REQUIREMENTS

Pub. L. 103-416, title I, §101(d), Oct. 25, 1994, 108 Stat. 4306, as amended by Pub. L. 104-208, div. C, title VI, §671(b)(1), Sept. 30, 1996, 110 Stat. 3009-721, provided that: “This section [amending this section and enacting provisions set out above], the amendments made by this section, and any retroactive application of such amendments shall not effect the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States citizenship to any person whose claim is based on the amendment made by subsection (a) [amending this section] or through whom such a claim is derived.”

ADMISSION OF ALASKA AS STATE

Alaska Statehood provisions as not conferring, terminating, or restoring United States nationality, see section 21 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions.

§ 1401a. Birth abroad before 1952 to service parent

Section 1401(g) of this title shall be considered to have been and to be applicable to a child born outside of the United States and its outlying

possessions after January 12, 1941, and before December 24, 1952, of parents one of whom is a citizen of the United States who has served in the Armed Forces of the United States after December 31, 1946, and before December 24, 1952, and whose case does not come within the provisions of section 201(g) or (i) of the Nationality Act of 1940.

(Mar. 16, 1956, ch. 85, 70 Stat. 50; Pub. L. 97-116, § 18(u)(2), Dec. 29, 1981, 95 Stat. 1621.)

Editorial Notes

REFERENCES IN TEXT

Section 201(g) and (i) of the Nationality Act of 1940, referred to in text, which were repealed by act June 27, 1952, ch. 477, title IV, § 403(a)(42), 66 Stat. 280, eff. Dec. 24, 1952, provided as follows:

“The following shall be nationals and citizens of the United States at birth:

* * * * *

“(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years’ residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years’ residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

“The preceding provisos shall not apply to a child born abroad whose American parent is at the time of the child’s birth residing abroad solely or principally in the employment of the Government of the United States or a bona fide American, educational, scientific, philanthropic, religious, commercial, or financial organization, having its principal office or place of business in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation:

* * * * *

“(i) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who has served or shall serve honorably in the armed forces of the United States after December 7, 1941, and before the date of the termination of hostilities in the present war as proclaimed by the President or determined by a joint resolution by the Congress and who, prior to the birth of such person, has had ten years’ residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of twelve years, the other being an alien: *Provided*, That in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years’ residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.”

CODIFICATION

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

AMENDMENTS

1981—Pub. L. 97-116 substituted “Section 1401(g)” for “Section 1401(a)(7)”.

Statutory Notes and Related Subsidiaries

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.

§ 1401b. Repealed. Pub. L. 92-584, § 2, Oct. 27, 1972, 86 Stat. 1289

Section, Pub. L. 85-316, § 16, Sept. 11, 1957, 71 Stat. 644, provided that absence from the United States of less than twelve months would not break the continuity of presence in the administration of section 1401(b) of this title. See section 1401(b) of this title.

§ 1402. Persons born in Puerto Rico on or after April 11, 1899

All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth.

(June 27, 1952, ch. 477, title III, ch. 1, § 302, 66 Stat. 236.)

§ 1403. Persons born in the Canal Zone or Republic of Panama on or after February 26, 1904

(a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States.

(June 27, 1952, ch. 477, title III, ch. 1, § 303, 66 Stat. 236.)

Editorial Notes

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

The effective date of this chapter, referred to in text, is the 180th day immediately following June 27, 1952. See section 407 of act June 27, 1952, set out as an Effective Date note under section 1101 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Panama Railroad Company redesignated Panama Canal Company by act Sept. 26, 1950, ch. 1049, §2(a)(2), 64 Stat. 1038. References to Panama Canal Company in laws of the United States are deemed to refer to Panama Canal Commission pursuant to section 3602(b)(5) of Title 22, Foreign Relations and Intercourse.

§ 1404. Persons born in Alaska on or after March 30, 1867

A person born in Alaska on or after March 30, 1867, except a noncitizen Indian, is a citizen of the United States at birth. A noncitizen Indian born in Alaska on or after March 30, 1867, and prior to June 2, 1924, is declared to be a citizen of the United States as of June 2, 1924. An Indian born in Alaska on or after June 2, 1924, is a citizen of the United States at birth.

(June 27, 1952, ch. 477, title III, ch. 1, §304, 66 Stat. 237.)

Statutory Notes and Related Subsidiaries

ADMISSION OF ALASKA AS STATE

Alaska Statehood provisions as not repealing, amending, or modifying the provisions of this section, see section 24 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions.

§ 1405. Persons born in Hawaii

A person born in Hawaii on or after August 12, 1898, and before April 30, 1900, is declared to be a citizen of the United States as of April 30, 1900. A person born in Hawaii on or after April 30, 1900, is a citizen of the United States at birth. A person who was a citizen of the Republic of Hawaii on August 12, 1898, is declared to be a citizen of the United States as of April 30, 1900.

(June 27, 1952, ch. 477, title III, ch. 1, §305, 66 Stat. 237.)

Executive Documents

ADMISSION OF HAWAII AS STATE

Hawaii Statehood provisions as not repealing, amending, or modifying the provisions of this section, see section 20 of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 13, set out as a note at the beginning of chapter 3 of Title 48, Territories and Insular Possessions.

§ 1406. Persons living in and born in the Virgin Islands

(a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927:

(1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

(2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;

(3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and

(4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.

(b) All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth.

(June 27, 1952, ch. 477, title III, ch. 1, §306, 66 Stat. 237.)

§ 1407. Persons living in and born in Guam

(a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those temporarily absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are declared to be citizens of the United States: *Provided*, That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire,

said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this chapter.

(June 27, 1952, ch. 477, title III, ch. 1, §307, 66 Stat. 237.)

Editorial Notes

REFERENCES IN TEXT

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

§ 1408. Nationals but not citizens of the United States at birth

Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

(3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and

(4) A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years—

(A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

(B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 1401(g) of this title shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.

(June 27, 1952, ch. 477, title III, ch. 1, §308, 66 Stat. 238; Pub. L. 99-396, §15(a), Aug. 27, 1986, 100 Stat. 842; Pub. L. 100-525, §3(2), Oct. 24, 1988, 102 Stat. 2614.)

Editorial Notes

AMENDMENTS

1988—Par. (4). Pub. L. 100-525 amended Pub. L. 99-396. See 1986 Amendment note below.

1986—Par. (4). Pub. L. 99-396, as amended by Pub. L. 100-525, added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-525, §3, Oct. 24, 1988, 102 Stat. 2614, provided that the amendment made by section 3 is effective as if included in the enactment of Pub. L. 99-396.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-396, §15(b), Aug. 27, 1986, 100 Stat. 843, provided that: "The amendment made by subsection (a) [amending this section] shall apply to persons born before, on, or after the date of the enactment of this Act [Aug. 27, 1986]. In the case of a person born before the date of the enactment of this Act—

"(1) the status of a national of the United States shall not be considered to be conferred upon the person until the date the person establishes to the satisfaction of the Secretary of State that the person meets the requirements of section 308(4) of the Immigration and Nationality Act [par. (4) of this section], and

"(2) the person shall not be eligible to vote in any general election in American Samoa earlier than January 1, 1987."

§ 1409. Children born out of wedlock

(a) The provisions of paragraphs (c), (d), (e), and (g) of section 1401 of this title, and of paragraph (2) of section 1408 of this title, shall apply as of the date of birth to a person born out of wedlock if—

(1) a blood relationship between the person and the father is established by clear and convincing evidence,

(2) the father had the nationality of the United States at the time of the person's birth,

(3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and

(4) while the person is under the age of 18 years—

(A) the person is legitimated under the law of the person's residence or domicile,

(B) the father acknowledges paternity of the person in writing under oath, or

(C) the paternity of the person is established by adjudication of a competent court.

(b) Except as otherwise provided in section 405 of this Act, the provisions of section 1401(g) of this title shall apply to a child born out of wedlock on or after January 13, 1941, and before December 24, 1952, as of the date of birth, if the paternity of such child is established at any time while such child is under the age of twenty-one years by legitimation.

(c) Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.

(June 27, 1952, ch. 477, title III, ch. 1, §309, 66 Stat. 238; Pub. L. 97-116, §18(l), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99-653, §13, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100-525, §§8(k), 9(r), Oct. 24, 1988, 102 Stat. 2617, 2621.)

Editorial Notes

REFERENCES IN TEXT

Section 405 of this Act, referred to in subsec. (b), is section 405 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.

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, see note under section 1401 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-525, §8(k), amended Pub. L. 99-653. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100-525, §9(r)(1), substituted “before December 24, 1952” for “prior to the effective date of this chapter” and “at any time” for “before or after the effective date of this chapter and”.

Subsec. (c). Pub. L. 100-525, §9(r)(2), substituted “after December 23, 1952” for “on or after the effective date of this chapter”.

1986—Subsec. (a). Pub. L. 99-653, as amended by Pub. L. 100-525, §8(k), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The provisions of paragraphs (c), (d), (e), and (g) of section 1401 of this title, and of paragraph (2) of section 1408, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this chapter, if the paternity of such child is established while such child is under the age of twenty-one years by legitimation.”

1981—Subsec. (a). Pub. L. 97-116, §18(l)(1), substituted “(c), (d), (e), and (g) of section 1401” for “(3) to (5) and (7) of section 1401(a)”.

Subsec. (b). Pub. L. 97-116, §18(l)(2), substituted “section 1401(g)” for “section 1401(a)(7)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 8(k) of Pub. L. 100-525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653, see section 309(b)(15) of Pub. L. 102-232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-653, §23(e), as added by Pub. L. 100-525, §8(r), Oct. 24, 1988, 102 Stat. 2619, provided that:

“(1) Except as provided in paragraph (2)(B), the new section 309(a) [8 U.S.C. 1409(a)] (as defined in paragraph (4)(A)) shall apply to persons who have not attained 18 years of age as of the date of the enactment of this Act [Nov. 14, 1986].

“(2) The old section 309(a) shall apply—

“(A) to any individual who has attained 18 years of age as of the date of the enactment of this Act, and

“(B) any individual with respect to whom paternity was established by legitimation before such date.

“(3) An individual who is at least 15 years of age, but under 18 years of age, as of the date of the enactment of this Act, may elect to have the old section 309(a) apply to the individual instead of the new section 309(a).

“(4) In this subsection:

“(A) The term ‘new section 309(a)’ means section 309(a) of the Immigration and Nationality Act [8 U.S.C. 1409(a)], as amended by section 13 of this Act [section 13 of Pub. L. 99-653] and as in effect after the date of the enactment of this Act.

“(B) The term ‘old section 309(a)’ means section 309(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.”

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.

PART II—NATIONALITY THROUGH
NATURALIZATION**§ 1421. Naturalization authority****(a) Authority in Attorney General**

The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

(b) Court authority to administer oaths**(1) Jurisdiction**

Subject to section 1448(c) of this title—

(A) General jurisdiction

Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

(B) Exclusive authority

An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 1448(a) of this title to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

(2) Information**(A) General information**

In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

(ii) the Attorney General—

(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 1448(a) of this title, and

(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

(B) Assignment of individuals in the case of exclusive authority

If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—

(i) the court's exclusive authority to administer the oath of allegiance under section 1448(a) of this title to such a person during the period specified in paragraph (3)(A)(i), and

(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

(3) Scope of exclusive authority

(A) Limited period and advance notice required

The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) Authority of Attorney General

Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) Waiver of exclusive authority

Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 1448(a) of this title to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

(4) Issuance of certificates

The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

(5) Eligible courts

For purposes of this section, the term "eligible court" means—

(A) a district court of the United States in any State, or

(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.

(c) Judicial review

A person whose application for naturalization under this subchapter is denied, after a hearing before an immigration officer under section

1447(a) of this title, may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5. Such review shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

(d) Sole procedure

A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this subchapter and not otherwise.

(June 27, 1952, ch. 477, title III, ch. 2, §310, 66 Stat. 239; Pub. L. 85-508, §25, July 7, 1958, 72 Stat. 351; Pub. L. 86-3, §20(c), Mar. 18, 1959, 73 Stat. 13; Pub. L. 87-301, §17, Sept. 26, 1961, 75 Stat. 656; Pub. L. 100-525, §9(s), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, §401(a), Nov. 29, 1990, 104 Stat. 5038; Pub. L. 102-232, title I, §102(a), title III, §305(a), Dec. 12, 1991, 105 Stat. 1734, 1749; Pub. L. 103-416, title II, §219(u), Oct. 25, 1994, 108 Stat. 4318.)

Editorial Notes

AMENDMENTS

1994—Subsec. (b)(5)(A). Pub. L. 103-416 substituted "district court" for "District Court".

1991—Subsec. (b). Pub. L. 102-232, §102(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "An applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts in this subsection specified to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts."

Pub. L. 102-232, §305(a), substituted "district court" for "District Court".

1990—Pub. L. 101-649 amended section generally, substituting provisions authorizing Attorney General to naturalize persons as citizens, for provisions granting certain courts exclusive jurisdiction to naturalize.

1988—Subsec. (e). Pub. L. 100-525 struck out subsec. (e) which read as follows: "Notwithstanding the provisions of section 405(a), any petition for naturalization filed on or after September 26, 1961, shall be heard and determined in accordance with the requirements of this subchapter."

1961—Subsec. (e). Pub. L. 87-301 added subsec. (e).

1959—Subsec. (a). Pub. L. 86-3 struck out provisions which conferred jurisdiction on District Court for Territory of Hawaii. See section 91 of Title 28, Judiciary and Judicial Procedure, and notes thereunder.

1958—Subsec. (a). Pub. L. 85-508 struck out provisions which conferred jurisdiction on District Court for Territory of Alaska. See section 81A of Title 28, which established a United States District Court for the State of Alaska.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-232, title I, §102(c), Dec. 12, 1991, 105 Stat. 1736, provided that: "The amendments made by this

title [amending this section and sections 1448, 1450, and 1455 of this title] shall take effect 30 days after the date of the enactment of this Act [Dec. 12, 1991].”

Amendment by section 305(a) 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.

EFFECTIVE DATE OF 1990 AMENDMENT; SAVINGS
PROVISION

Pub. L. 101-649, title IV, §408, Nov. 29, 1990, 104 Stat. 5047, as amended by Pub. L. 102-232, title III, §305(n), Dec. 12, 1991, 105 Stat. 1750, provided that:

“(a) EFFECTIVE DATE.—

“(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act [8 U.S.C. 1421(a)], to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

“(2) TREATMENT OF CURRENT COURT PETITIONS.—

“(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

“(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on January 1, 1992, the petitioner may withdraw such petition and have the petitioner’s application for naturalization considered under the amendments made by this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, and repealing section 1459 of this title], but only if the petition is withdrawn not later than 3 months after the effective date.

“(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act [Nov. 29, 1990].

“(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.

“(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act [8 U.S.C. 1450] (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before October 1, 1991.

“(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, repealing section 1459 of this title, and enacting provisions set out as a note under section 1440 of this title], unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

“(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

“(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.—The amendments made by section 404 [amending section 1426 of this title] (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this

Act [Nov. 29, 1990] and shall apply to exemptions from training or service obtained before, on, or after such date.

“(f) FILIPINO WAR VETERANS.—Section 405 [enacting provisions formerly set out as a note under section 1440 of this title] (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.”

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.

Executive Documents

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

§ 1422. Eligibility for naturalization

The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.

(June 27, 1952, ch. 477, title III, ch. 2, §311, 66 Stat. 239; Pub. L. 100-525, §9(t), Oct. 24, 1988, 102 Stat. 2621.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-525 struck out at end “Notwithstanding section 405(b) of this Act, this section shall apply to any person whose petition for naturalization shall hereafter be filed, or shall have been pending on the effective date of this chapter.”

§ 1423. Requirements as to understanding the English language, history, principles and form of government of the United States

(a) No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*, That the requirements of this paragraph relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

(b)(1) The requirements of subsection (a) shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

(2) The requirement of subsection (a)(1) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 1445 of this title, either—

(A) is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence, or

(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsequent to a lawful admission for permanent residence.

(3) The Attorney General, pursuant to regulations, shall provide for special consideration, as determined by the Attorney General, concerning the requirement of subsection (a)(2) with respect to any person who, on the date of the filing of the person's application for naturalization as provided in section 1445 of this title, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.

(June 27, 1952, ch. 477, title III, ch. 2, §312, 66 Stat. 239; Pub. L. 95-579, §3, Nov. 2, 1978, 92 Stat. 2474; Pub. L. 101-649, title IV, §403, Nov. 29, 1990, 104 Stat. 5039; Pub. L. 102-232, title III, §305(m)(2), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103-416, title I, §108(a), Oct. 25, 1994, 108 Stat. 4309.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-416 designated existing provisions as subsec. (a), struck out “this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any person who, on the date of the filing of his application for naturalization as provided in section 1445 of this title, either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence: *Provided further*, That”, after “*Provided*, That”, substituted “this paragraph” for “this section” after “requirements of”, and added subsec. (b).

1991—Pub. L. 102-232 substituted “application” for “petition” in introductory provisions and par. (1).

1990—Par. (1). Pub. L. 101-649 substituted “either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence” for “is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence”.

1978—Par. (1). Pub. L. 95-579 substituted “person who, on the date of the filing of his petition for naturalization as provided in section 1445 of this title, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence” for “person who, on the effective date of this chapter, is over fifty years of age and has been living in the

United States for periods totaling at least twenty years”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title I, §108(c), Oct. 25, 1994, 108 Stat. 4310, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 25, 1994] and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.”

EFFECTIVE DATE OF 1991 AMENDMENT

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.

REGULATIONS

Pub. L. 103-416, title I, §108(d), Oct. 25, 1994, 108 Stat. 4310, provided that: “Not later than 120 days after the date of enactment of this Act [Oct. 25, 1994], the Attorney General shall promulgate regulations to carry out section 312(b)(3) of the Immigration and Nationality Act [8 U.S.C. 1423(b)(3)] (as amended by subsection (a)).”

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.

HONG VETERANS' NATURALIZATION

Pub. L. 106-207, May 26, 2000, 114 Stat. 316, as amended by Pub. L. 106-415, Nov. 1, 2000, 114 Stat. 1810; Pub. L. 107-77, title I, §112, Nov. 28, 2001, 115 Stat. 765, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Hmong Veterans’ Naturalization Act of 2000’.

“SEC. 2. EXEMPTION FROM ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.

“The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)) shall not apply to the naturalization of any person—

“(1) who—

“(A) was admitted into the United States as a refugee from Laos pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); and

“(B) served with a special guerrilla unit, or irregular forces, operating from a base in Laos in support of the United States military at any time during the period beginning February 28, 1961, and ending September 18, 1978;

“(2) who—

“(A) satisfies the requirement of paragraph (1)(A); and

“(B) was the spouse of a person described in paragraph (1) on the day on which such described person applied for admission into the United States as a refugee; or

“(3) who—

“(A) satisfies the requirement of paragraph (1)(A); and

“(B) is the surviving spouse of a person described in paragraph (1)(B) which described person was killed or died in Laos, Thailand, or Vietnam.

“SEC. 3. SPECIAL CONSIDERATION CONCERNING CIVICS REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.

“The Attorney General shall provide for special consideration, as determined by the Attorney General,

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

corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries in such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the Attorney General that his absence from the United States for such period has been for such purpose.

The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

(c) Physical presence

The granting of the benefits of subsection (b) of this section shall not relieve the applicant from the requirement of physical presence within the United States for the period specified in subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing an application for naturalization.

(d) Moral character

No finding by the Attorney General that the applicant is not deportable shall be accepted as conclusive evidence of good moral character.

(e) Determination

In determining whether the applicant has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the Attorney General shall not be limited to the applicant's conduct during the five years preceding the filing of the application, but may take into consideration as a basis for such determination the applicant's conduct and acts at any time prior to that period.

(f) Persons making extraordinary contributions to national security

(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that an applicant otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the applicant may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 1424 of this title, and no residence within a particular State or district of the Service in the United States shall be required: *Provided*, That the applicant has continuously resided in the United States for at least one year prior to naturalization: *Provided further*, That the provisions of this subsection shall not apply to any alien described in clauses (i) through (v) of section 1158(b)(2)(A) of this title.

(2) An applicant for naturalization under this subsection may be administered the oath of allegiance under section 1448(a) of this title by any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed five. The Director of Central Intelligence shall inform the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives within a reasonable time prior to the filing of each application under the provisions of this subsection.

(June 27, 1952, ch. 477, title III, ch. 2, §316, 66 Stat. 242; Pub. L. 97-116, §14, Dec. 29, 1981, 95 Stat. 1619; Pub. L. 99-169, title VI, §601, Dec. 4, 1985, 99 Stat. 1007; Pub. L. 101-649, title IV, §§402, 407(c)(2), (d)(1), (e)(1), Nov. 29, 1990, 104 Stat. 5038, 5041, 5046; Pub. L. 104-208, div. C, title III, §308(g)(7)(F), Sept. 30, 1996, 110 Stat. 3009-624; Pub. L. 109-149, title V, §518, Dec. 30, 2005, 119 Stat. 2882.)

Editorial Notes

AMENDMENTS

2005—Subsec. (g). Pub. L. 109-149, §518, temporarily added subsec. (g) reading as follows:

“(1) The continuous residency requirement under subsection (a) of this section may be reduced to 3 years for an applicant for naturalization if—

“(A) the applicant is the beneficiary of an approved petition for classification under section 1154(a)(1)(E) of this title;

“(B) the applicant has been approved for adjustment of status under section 1255(a) of this title; and

“(C) such reduction is necessary for the applicant to represent the United States at an international event.

“(2) The Secretary of Homeland Security shall adjudicate an application for naturalization under this section not later than 30 days after the submission of such application if the applicant—

“(A) requests such expedited adjudication in order to represent the United States at an international event; and

“(B) demonstrates that such expedited adjudication is related to such representation.

“(3) An applicant is ineligible for expedited adjudication under paragraph (2) if the Secretary of Homeland Security determines that such expedited adjudication poses a risk to national security. Such a determination by the Secretary shall not be subject to review.

“(4)(A) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge and collect a \$1,000 premium processing fee from each applicant described in this subsection to offset the additional costs incurred to expedite the processing of applications under this subsection.

“(B) The fee collected under subparagraph (A) shall be deposited as offsetting collections in the Immigration Examinations Fee Account.” See Termination Date of 2005 Amendment note below.

1996—Subsec. (f)(1). Pub. L. 104-208 substituted “clauses (i) through (v) of section 1158(b)(2)(A) of this title” for “subparagraphs (A) through (D) of section 1253(h)(2) of this title”.

1990—Subsec. (a). Pub. L. 101-649, §407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Pub. L. 101-649, §402, substituted “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” for “and who has resided within the State in which the petitioner filed the petition for at least six months” in cl. (1).

Subsec. (b). Pub. L. 101-649, §407(d)(1)(A), (B), substituted “the Attorney General” for “the court” in first par. and subpar. (2) of second par., and “date of any hearing under section 1447(a) of this title” for “date of final hearing” in first par.

Pub. L. 101-649, §407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101-649, §407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (d). Pub. L. 101-649, §407(c)(2), substituted reference to applicant for reference to petitioner.

Subsec. (e). Pub. L. 101-649, §407(d)(1)(C), substituted “the Attorney General” for “the court”.

Pub. L. 101-649, §407(c)(2), substituted references to applicant, applicant’s, and application for references to petitioner, petitioner’s, and petition wherever appearing.

Subsec. (f). Pub. L. 101-649, §407(e)(1), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: “Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 792 or 793 of title 50.”

Subsec. (f)(1). Pub. L. 101-649, §407(d)(1)(D), substituted “within a particular State or district of the Service in the United States” for “within the jurisdiction of the court”.

Pub. L. 101-649, §407(c)(2), substituted references to applicant for references to petitioner wherever appearing.

Subsec. (f)(2). Pub. L. 101-649, §407(d)(1)(E), amended first sentence generally. Prior to amendment, first sentence read as follows: “A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner.”

Subsec. (f)(3). Pub. L. 101-649, §407(c)(2), substituted reference to application for reference to petition.

1985—Subsec. (g). Pub. L. 99-169 added subsec. (g).

1981—Subsec. (b). Pub. L. 97-116 inserted provision that the spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

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.

TERMINATION DATE OF 2005 AMENDMENT

Pub. L. 109-149, title V, §518(b), Dec. 30, 2005, 119 Stat. 2882, provided that: “The amendment made by subsection (a) [amending this section] is repealed on January 1, 2006.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 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.

EXPEDITED NATURALIZATION

Pub. L. 104-293, title III, §305, Oct. 11, 1996, 110 Stat. 3465, as amended by Pub. L. 106-120, title III, §307, Dec. 3, 1999, 113 Stat. 1612, provided that:

“(a) IN GENERAL.—With the approval of the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization, an applicant described in subsection (b) and otherwise eligible for naturalization may be naturalized without regard to the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act [8 U.S.C. 1427(a)], or to the prohibitions of section 313 of such Act [8 U.S.C. 1424], and no residence within a particular State or district of the Immigration and Naturalization Service in the United States shall be required.

“(b) ELIGIBLE APPLICANT.—An applicant eligible for naturalization under this section is the spouse or child of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information regarding the alien’s participation in the conduct of United States intelligence activities and who—

“(1) has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least one year prior to naturalization; and

“(2) is not described in clauses (i) through (iv) of section 241(b)(3)(B) of such Act [8 U.S.C. 1231(b)(3)(B)].

“(c) ADMINISTRATION OF OATH.—An applicant for naturalization under this section may be administered the oath of allegiance under section 337(a) of the Immigration and Nationality Act [8 U.S.C. 1448(a)] by the Attorney General or any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

“(d) DEFINITIONS.—For purposes of this section—

“(1) the term ‘child’ means a child as defined in subparagraphs (A) through (E) of section 101(b)(1) of the Immigration and Nationality Act [8 U.S.C. 1101(b)(1)], without regard to age or marital status; and

“(2) the term ‘spouse’ means the wife or husband of a deceased alien referred to in subsection (b) who was married to such alien during the time the alien participated in the conduct of United States intelligence activities.”

§ 1428. Temporary absence of persons performing religious duties

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for permanent residence, (2) has at any time thereafter and before filing an application for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 1427(a) of this title, notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

(June 27, 1952, ch. 477, title III, ch. 2, §317, 66 Stat. 243; Pub. L. 101-649, title IV, §407(c)(3), (d)(2), Nov. 29, 1990, 104 Stat. 5041.)

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-649, §407(d)(2), struck out “and the naturalization court” after “Attorney General”.

Pub. L. 101-649, §407(c)(3), substituted “application” for “petition”.

Statutory Notes and Related Subsidiaries

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.

§ 1429. Prerequisite to naturalization; burden of proof

Except as otherwise provided in this subchapter, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this chapter. The burden of proof shall be upon such person to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405(b),¹ and except as provided in sections 1439 and 1440 of this title no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act; and no application for naturalization shall be considered by the Attorney General if there is pending against the applicant a removal proceeding pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act: *Provided*, That the findings of the Attorney General in terminating removal proceedings or in canceling the removal of an alien pursuant to the provisions of this chapter, shall not be deemed binding in any way upon the Attorney General with respect to the question of whether such person has established his eligibility for naturalization as required by this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, §318, 66 Stat. 244; Pub. L. 90-633, §4, Oct. 24, 1968, 82 Stat. 1344; Pub. L. 101-649, title IV, §407(c)(4), (d)(3), Nov. 29, 1990, 104 Stat. 5041; Pub. L. 104-208, div. C, title III, §308(e)(1)(O), (15), Sept. 30, 1996, 110 Stat. 3009-620, 3009-621.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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.

Section 405(b), referred to in text, 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

1996—Pub. L. 104-208 substituted “removal” for “deportation” wherever appearing and “canceling” for “suspending”.

1990—Pub. L. 101-649, §407(d)(3), in last sentence substituted “considered by the Attorney General” for “finally heard by a naturalization court” and “upon the Attorney General” for “upon the naturalization court”.

Pub. L. 101-649, §407(c)(4), substituted “application” for “petition” and “applicant” for “petitioner”.

1968—Pub. L. 90-633 substituted reference to exception provided in sections 1439 and 1440 of this title for

¹ See References in Text note below.

reference to exception provided in sections 1438 and 1439 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, 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.

§ 1430. Married persons and employees of certain nonprofit organizations

(a) Any person whose spouse is a citizen of the United States, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty, may be naturalized upon compliance with all the requirements of this subchapter except the provisions of paragraph (1) of section 1427(a) of this title if such person 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 three years, and during the three years immediately preceding the date of filing his application has been living in marital union with the citizen spouse (except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent), who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months.

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of 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, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon the termination of such employment

abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within a State or a district of the Service in the United States or proof thereof shall be required.

(c) Any person who (1) is employed by a bona fide United States incorporated nonprofit organization which is principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes United States interests abroad and which is recognized as such by the Attorney General, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his application for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this subchapter except that no prior residence or specified period of physical presence within the United States or any State or district of the Service in the United States, or proof thereof, shall be required.

(d) Any person who is the surviving spouse, child, or parent of a United States citizen, whose citizen spouse, parent, or child dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who, in the case of a surviving spouse, was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this subchapter except that no prior residence or specified physical presence within the United States, or within a State or a district of the Service in the United States shall be required. For purposes of this subsection, the terms "United States citizen" and "citizen spouse" include a person granted posthumous citizenship under section 1440-1 of this title.

(e)(1) In the case of a person lawfully admitted for permanent residence in the United States who is the spouse of a member of the Armed Forces of the United States, is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member in marital union, such residence and physical presence abroad shall be treated, for purposes of subsection (a) and section 1427(a) of this title, as residence and physical presence in—

(A) the United States; and

(B) any State or district of the Department of Homeland Security in the United States.

(2) Notwithstanding any other provision of law, a spouse described in paragraph (1) shall be eligible for naturalization proceedings overseas pursuant to section 1443a of this title.

(June 27, 1952, ch. 477, title III, ch. 2, §319, 66 Stat. 244; Pub. L. 85-697, §2, Aug. 20, 1958, 72

Stat. 687; Pub. L. 90-215, §1(a), Dec. 18, 1967, 81 Stat. 661; Pub. L. 90-369, June 29, 1968, 82 Stat. 279; Pub. L. 101-649, title IV, §407(b)(1), (c)(5), (d)(4), Nov. 29, 1990, 104 Stat. 5040, 5041; Pub. L. 106-386, div. B, title V, §1503(e), Oct. 28, 2000, 114 Stat. 1522; Pub. L. 108-136, div. A, title XVII, §1703(f)(1), (h), Nov. 24, 2003, 117 Stat. 1695, 1696; Pub. L. 110-181, div. A, title VI, §674(a), Jan. 28, 2008, 122 Stat. 185.)

Editorial Notes

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-181 added subsec. (e).
 2003—Subsec. (d). Pub. L. 108-136, §1703(h), inserted “, child, or parent” after “surviving spouse” and “, parent, or child” after “whose citizen spouse”, and substituted “who, in the case of a surviving spouse, was living” for “who was living”.
 Pub. L. 108-136, §1703(f)(1), inserted at end “For purposes of this subsection, the terms ‘United States citizen’ and ‘citizen spouse’ include a person granted posthumous citizenship under section 1440-1 of this title.”
 2000—Subsec. (a). Pub. L. 106-386 inserted “, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty,” after “citizen of the United States” and “(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)” after “has been living in marital union with the citizen spouse”.
 1990—Subsec. (a). Pub. L. 101-649, §407(c)(5), substituted “application” for “petition” wherever appearing.
 Pub. L. 101-649, §407(b)(1)(A), substituted “has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months” for “has resided within the State in which he filed his petition for at least six months.”
 Subsec. (b). Pub. L. 101-649, §407(d)(4)(A), substituted “before the Attorney General” for “before the naturalization court” in cl. (3).
 Pub. L. 101-649, §407(b)(1)(B), substituted “within a State or a district of the Service in the United States” for “within the jurisdiction of the naturalization court”.
 Subsec. (c). Pub. L. 101-649, §407(d)(4)(B), substituted “Attorney General” for “naturalization court” in cl. (5).
 Pub. L. 101-649, §407(c)(5), substituted “application” for “petition”.
 Pub. L. 101-649, §407(b)(1)(C), substituted “district of the Service in the United States” for “within the jurisdiction of the court”.
 Subsec. (d). Pub. L. 101-649, §407(b)(1)(B), substituted “within a State or a district of the Service in the United States” for “within the jurisdiction of the naturalization court”.
 1968—Subsec. (d). Pub. L. 90-369 added subsec. (d).
 1967—Subsec. (c). Pub. L. 90-215 added subsec. (c).
 1958—Subsec. (b). Pub. L. 85-697 inserted provision relating to persons performing religious duties.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title VI, §674(d), Jan. 28, 2008, 122 Stat. 186, provided that: “The amendments made by this section [amending this section and sections 1433 and 1443a of this title] shall take effect on the date of enactment of this Act [Jan. 28, 2008] and apply to any application for naturalization or issuance of a certificate of citizenship pending on or after such date.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XVII, §1703(f)(2), Nov. 24, 2003, 117 Stat. 1695, provided that: “The amendment

made by paragraph (1) [amending this section] shall apply with respect to persons granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440-1) due to death on or after September 11, 2001.”

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

REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES

Pub. L. 101-193, title V, §506, Nov. 30, 1989, 103 Stat. 1709, as amended by Pub. L. 104-208, div. C, title VI, §671(g)(1), Sept. 30, 1996, 110 Stat. 3009-724; Pub. L. 105-85, div. A, title IX, §923, Nov. 18, 1997, 111 Stat. 1863, provided that:

“(a) For purposes of section 319(c) of the Immigration and Nationality Act (8 U.S.C. 1430(c)), the George C. Marshall European Center for Security Studies, located in Garmisch, Federal Republic of Germany, shall be considered to be an organization described in clause (1) of such section.

“(b) Subsection (a) shall apply with respect to periods of employment before, on, or after the date of the enactment of this Act [Nov. 30, 1989].

“(c) No more than two persons per year may be naturalized based on the provisions of subsection (a).

“(d) Each instance of naturalization based on the provisions of subsection (a) shall be reported to the Committees on the Judiciary of the Senate and House of Representatives and to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to such naturalization.”

§ 1431. Children born outside the United States and lawfully admitted for permanent residence; conditions under which citizenship automatically acquired

(a) In general

A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.

(2) The child is under the age of eighteen years.

(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(b) Adoption

Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(c) Children of military and Federal Government personnel residing abroad

Subsection (a)(3) is deemed satisfied in the case of a child who is lawfully admitted for permanent residence in the United States if—

(1) the child is residing in the legal and physical custody of a citizen parent who is—

(A) stationed and residing abroad as an employee of the Government of the United States; or

(B) residing abroad in marital union with an employee of the Government of the United States who is stationed abroad; or

(2) the child is—

(A) residing in the legal and physical custody of a citizen parent who is—

(i) stationed and residing abroad as a member of the Armed Forces of the United States; or

(ii) authorized to accompany and reside abroad with a member of the Armed Forces of the United States pursuant to the member's official orders, and is so accompanying and residing abroad with the member in marital union; and

(B) authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member.

(d) Name and birth date

A Certificate of Citizenship or other Federal document issued or requested to be amended under this section shall reflect the child's name and date of birth as indicated on a State court order, birth certificate, certificate of foreign birth, certificate of birth abroad, or similar State vital records document issued by the child's State of residence in the United States after the child has been adopted or readopted in that State.

(June 27, 1952, ch. 477, title III, ch. 2, §320, 66 Stat. 245; Pub. L. 95-417, §4, Oct. 5, 1978, 92 Stat. 917; Pub. L. 97-116, §18(m), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99-653, §14, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100-525, §§8(l), 9(w), Oct. 24, 1988, 102 Stat. 2618, 2621; Pub. L. 106-395, title I, §101(a), Oct. 30, 2000, 114 Stat. 1631; Pub. L. 113-74, §2, Jan. 16, 2014, 127 Stat. 1212; Pub. L. 116-133, §2(a), Mar. 26, 2020, 134 Stat. 274.)

Editorial Notes

AMENDMENTS

2020—Pub. L. 116-133, §2(a)(1), substituted “Children born outside the United States and lawfully admitted for permanent residence; conditions under which citizenship automatically acquired” for “Children born outside the United States and residing permanently in the United States; conditions under which citizenship automatically acquired; determinations of name and birth date” in section catchline.

Subsecs. (c), (d). Pub. L. 116-133, §2(a)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

2014—Subsec. (c). Pub. L. 113-74 added subsec. (c).

2000—Pub. L. 106-395 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

“(1) such naturalization takes place while such child is unmarried and under the age of eighteen years; and

“(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins

to reside permanently in the United States while under the age of eighteen years.

“(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.”

1988—Subsec. (a)(1). Pub. L. 100-525, §8(l), repealed Pub. L. 99-653, §14. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100-525, §9(w), substituted “Subsection (a)” for “Subsection (a)(1)”.

1986—Subsec. (a)(1). Pub. L. 99-653, §14, which inserted “unmarried and” after “such child is”, was repealed by Pub. L. 100-525, §8(l).

1981—Subsec. (b). Pub. L. 97-116 substituted “an adopted child only if the child” for “a child adopted while under the age of sixteen years who”.

1978—Subsec. (a). Pub. L. 95-417 substituted in pars. (1) and (2) “eighteen years” for “sixteen years”.

Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a)(1) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-395, title I, §104, Oct. 30, 2000, 114 Stat. 1633, provided that: “The amendments made by this title [amending this section and section 1433 of this title and repealing section 1432 of this title] shall take effect 120 days after the date of the enactment of this Act [Oct. 30, 2000] and shall apply to individuals who satisfy the requirements of section 320 or 322 of the Immigration and Nationality Act [8 U.S.C. 1431, 1433], as in effect on such effective date.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 8(l) of Pub. L. 100-525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653, see section 309(b)(15) of Pub. L. 102-232, set out as an Effective and Termination Dates of 1988 Amendments 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.

§ 1432. Repealed. Pub. L. 106-395, title I, § 103(a), Oct. 30, 2000, 114 Stat. 1632

Section, acts June 27, 1952, ch. 477, title III, ch. 2, §321, 66 Stat. 245; Pub. L. 95-417, §5, Oct. 5, 1978, 92 Stat. 918; Pub. L. 97-116, §18(m), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99-653, §15, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100-525, §8(l), Oct. 24, 1988, 102 Stat. 2618, related to conditions for automatic citizenship of children born outside the United States of alien parents.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Oct. 30, 2000, see section 104 of Pub. L. 106-395, set out as an Effective Date of 2000 Amendment note under section 1431 of this title.

§ 1433. Children born and residing outside the United States; conditions for acquiring certificate of citizenship

(a) Application by citizen parents; requirements

A parent who is a citizen of the United States (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born outside of the United

States who has not acquired citizenship automatically under section 1431 of this title. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

(1) At least one parent (or, at the time of his or her death, was) is¹ a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent—

(A) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

(B) has (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(3) The child is under the age of eighteen years.

(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Attainment of citizenship status; receipt of certificate

Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section 1448(a) of this title, upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Adopted children

Subsections (a) and (b) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(d) Children of Armed Forces members

In the case of a child of a member of the Armed Forces of the United States who is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member—

(1) any period of time during which the member of the Armed Forces is residing abroad pursuant to official orders shall be treated, for purposes of subsection (a)(2)(A), as physical presence in the United States;

(2) subsection (a)(5) shall not apply; and

(3) the oath of allegiance described in subsection (b) may be subscribed to abroad pursuant to section 1443a of this title.

(June 27, 1952, ch. 477, title III, ch. 2, §322, 66 Stat. 246; Pub. L. 95-417, §6, Oct. 5, 1978, 92 Stat. 918; Pub. L. 97-116, §18(m), (n), Dec. 29, 1981, 95 Stat. 1620, 1621; Pub. L. 99-653, §16, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100-525, §8(l), Oct. 24, 1988, 102 Stat. 2618; Pub. L. 101-649, title IV, §407(b)(2), (c)(6), (d)(5), Nov. 29, 1990, 104 Stat. 5040-5042; Pub. L. 102-232, title III, §305(m)(3), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103-416, title I, §102(a), Oct. 25, 1994, 108 Stat. 4306; Pub. L. 106-139, §1(b)(2), Dec. 7, 1999, 113 Stat. 1697; Pub. L. 106-395, title I, §102(a), Oct. 30, 2000, 114 Stat. 1632; Pub. L. 107-273, div. C, title I, §11030B, Nov. 2, 2002, 116 Stat. 1837; Pub. L. 110-181, div. A, title VI, §674(b), Jan. 28, 2008, 122 Stat. 186.)

Editorial Notes

REFERENCES IN TEXT

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

2008—Subsec. (d). Pub. L. 110-181 added subsec. (d).

2002—Subsec. (a). Pub. L. 107-273, §11030B(1), in introductory provisions, inserted "(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)" after "citizen of the United States" and substituted "such applicant" for "such parent".

Subsec. (a)(1). Pub. L. 107-273, §11030B(2), inserted "(or, at the time of his or her death, was)" after "parent".

Subsec. (a)(2)(A). Pub. L. 107-273, §11030B(3)(A), inserted "(or, at the time of his or her death, had)" after "(A) has".

Subsec. (a)(2)(B). Pub. L. 107-273, §11030B(3)(B), inserted "(or, at the time of his or her death, had)" after "(B) has".

Subsec. (a)(4). Pub. L. 107-273, §11030B(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The child is residing outside of the United States in the legal and physical custody of the citizen parent, is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status."

Subsec. (a)(5). Pub. L. 107-273, §11030B(5), added par. (5).

2000—Pub. L. 106-395 amended section catchline and text generally, revising and restating provisions relating to acquisition of certificate of citizenship for certain children born outside the United States.

1999—Subsec. (a)(4). Pub. L. 106-139 substituted "16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 1101(b)(1) of this title)" for "16 years" and "either of such subparagraphs" for "subparagraph (E) or (F) of section 1101(b)(1) of this title".

1994—Pub. L. 103-416 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a) naturalization on application of citizen parents; in subsec. (b) adopted children; and subsec. (c) specified period of residence for adopted children.

1991—Pub. L. 102-232 amended section catchline.

1990—Subsec. (a). Pub. L. 101-649, §407(c)(6), substituted "applying" for "petitioning" and "application" for "petition".

Subsec. (c). Pub. L. 101-649, §407(d)(5), substituted "Attorney General" for first reference to "naturalization court" in cl. (2)(C).

Pub. L. 101-649, §407(c)(6), substituted "applies" for "petitions".

¹So in original. The word "is" probably should appear after "parent".

Pub. L. 101-649, §407(b)(2), substituted “within a State or a district of the Service in the United States” for “within the jurisdiction of the naturalization court”.

1988—Subsec. (a). Pub. L. 100-525 repealed Pub. L. 99-653, §16. See 1986 Amendment note below.

1986—Subsec. (a). Pub. L. 99-653, §16, which inserted “unmarried and” after “be naturalized if”, was repealed by Pub. L. 100-525.

1981—Subsec. (b). Pub. L. 97-116, §18(m), substituted “an adopted child only if the child” for “a child adopted while under the age of sixteen years who”.

Subsec. (c). Pub. L. 97-116, §18(n), added subsec. (c).

1978—Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective Jan. 28, 2008, and applicable to any application for naturalization or issuance of a certificate of citizenship pending on or after such date, see section 674(d) of Pub. L. 110-181, set out as a note under section 1430 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-395 effective 120 days after Oct. 30, 2000, and applicable to individuals who satisfy the requirements of this section or section 1431 of this title as in effect on such effective date, see section 104 of Pub. L. 106-395, set out as a note under section 1431 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title I, §102(d), Oct. 25, 1994, 108 Stat. 4307, provided that: “The amendments made by this section [amending this section and section 1452 of this title] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Oct. 25, 1994].”

EFFECTIVE DATE OF 1991 AMENDMENT

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 1988 AMENDMENT

Amendment by Pub. L. 100-525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653, see section 309(b)(15) of Pub. L. 102-232, set out as an Effective and Termination Dates of 1988 Amendments 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.

APPLICATION OF 1994 AMENDMENT

Pub. L. 103-416, title I, §102(e), as added by Pub. L. 104-208, div. C, title VI, §671(b)(2), Sept. 30, 1996, 110 Stat. 3009-721, which provided that in applying amendment made by subsection (a), amending this section, to children born before Nov. 14, 1986, any reference in matter inserted by such amendment to “five years, at least two of which” was deemed a reference to “10 years, at least 5 of which”, was repealed by Pub. L. 105-38, §1, Aug. 8, 1997, 111 Stat. 1115, effective as if included in the enactment of Pub. L. 103-416.

§ 1434. Repealed. Pub. L. 95-417, § 7, Oct. 5, 1978, 92 Stat. 918

Section, acts June 27, 1952, ch. 477, title III, ch. 2, §323, 66 Stat. 246; Sept. 11, 1957, Pub. L. 85-316, §11, 71 Stat. 642; Aug. 20, 1958, Pub. L. 85-697, §1, 72 Stat. 687, related to citizenship of children adopted by citizens.

§ 1435. Former citizens regaining citizenship

(a) Requirements

Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this subchapter, except—

(1) no period of residence or specified period of physical presence within the United States or within the State or district of the Service in the United States where the application is filed shall be required; and

(2) the application need not set forth that it is the intention of the applicant to reside permanently within the United States.

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) Additional requirements

No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the Attorney General that she has been 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 for a period of not less than five years immediately preceding the date of filing an application for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her application for naturalization.

(c) Oath of allegiance

(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship,

(B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 1448 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the Attorney General or the judge or clerk of a court described in section 1421(b) of this title.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, court, or the Attorney General, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court, or the Attorney General, shall be delivered to such woman at a cost not exceeding \$5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States.

(d) Persons losing citizenship for failure to meet physical presence retention requirement

(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 1401(b) of this title (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 1448 of this title be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).

(June 27, 1952, ch. 477, title III, ch. 2, § 324, 66 Stat. 246; Pub. L. 100-525, § 9(x), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, § 407(b)(3), (c)(7), (d)(6), Nov. 29, 1990, 104 Stat. 5040-5042; Pub. L. 103-416, title I, § 103(a), Oct. 25, 1994, 108 Stat. 4307.)

Editorial Notes

REFERENCES IN TEXT

Section 317(a) and (b) of the Nationality Act of 1940, referred to in subsecs. (a) and (c)(1), which was classi-

fied to section 717(a) and (b) of this title, was repealed by section 403(a)(42) of act June 27, 1952. See subsecs. (a) and (c) of this section.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-416 added subsec. (d).

1990—Subsec. (a)(1). Pub. L. 101-649, § 407(b)(3), (c)(7), (d)(6)(A)(i), substituted “State or district of the Service in the United States” for “State” and “application” for “petition” and inserted “and” at end.

Subsec. (a)(2). Pub. L. 101-649, § 407(c)(7), (d)(6)(A)(ii), substituted references to applicant and application for references to petitioner and petition, and substituted period for semicolon at end.

Subsec. (a)(3), (4). Pub. L. 101-649, § 407(d)(6)(A)(iii), struck out pars. (3) and (4) which related to filing of petition and hearing on petition.

Subsec. (b). Pub. L. 101-649, § 407(c)(7), (d)(6)(B), substituted references to application for references to petition wherever appearing, and “Attorney General” for “naturalization court”.

Subsec. (c)(1). Pub. L. 101-649, § 407(c)(7), substituted “an application” for “a petition”.

Subsec. (c)(2). Pub. L. 101-649, § 407(d)(6)(C)(i), substituted “the Attorney General or the judge or clerk of a court described in section 1421(b) of this title” for “the judge or clerk of a naturalization court”.

Subsec. (c)(3). Pub. L. 101-649, § 407(d)(6)(C)(ii), substituted “court, or the Attorney General” for “or naturalization court” in two places.

1988—Subsec. (a)(4). Pub. L. 100-525 substituted “has” for “and the witnesses have”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title I, § 103(b), Oct. 25, 1994, 108 Stat. 4308, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Oct. 25, 1994].”

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.

ITALIAN ELECTIONS; NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ELECTIONS

Act Aug. 16, 1951, ch. 321, § 1, 65 Stat. 191, as amended by section 402(j) of act June 27, 1952, provided: “That a person who, while a citizen of the United States, has lost citizenship of the United States solely by reason of having voted in a political election or plebiscite held in Italy between January 1, 1946, and April 18, 1948, inclusive, and who has not subsequent to such voting committed any act which, had he remained a citizen, would have operated to expatriate him, may be naturalized by taking, prior to two years from the enactment of this Act [June 27, 1952], before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, the oath required by section 337 of the Immigration and Nationality Act [section 1448 of this title]. Certified copies of such oath shall be sent by such diplomatic or consular officer or such court to the Department of State and to the Department of Justice. Such person shall have, from and after naturalization under this section, the same citizenship status as that which existed immediately prior to its loss: *Provided*, That no such person shall be eligible to take the oath required by section 337 of the Immigration and Nationality Act [section 1448 of this title] unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of

the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. The illegal or fraudulent procurement of naturalization under this amendment shall be subject to cancellation in the same manner as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title].”

JAPANESE ELECTIONS; NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ELECTIONS

Act July 20, 1954, ch. 553, 68 Stat. 495, provided: “That a person who has lost United States citizenship solely by reason of having voted in any political election or plebiscite held in Japan between September 2, 1945, and April 27, 1952, inclusive, and who has not, subsequent to such voting, committed any act which, had he remained a citizen, would have operated to expatriate him, and is not otherwise disqualified from becoming a citizen by reason of sections 313 or 314, or the third sentence of section 318 of the Immigration and Nationality Act [sections 1424, 1425, 1429 of this title], may be naturalized by taking, prior to two years after the date of the enactment of this Act [July 20, 1954], before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title] or before any diplomatic or consular officer of the United States abroad, the applicable oath prescribed by section 337 of such Act [section 1448 of this title]. Certified copies of such oath shall be sent by such court or such diplomatic or consular officer to the Department of State and to the Department of Justice. Such oath of allegiance shall be entered in the records of the appropriate naturalization court, embassy, legation, or consulate, and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the naturalization court, embassy, legation or consulate, shall be delivered to such person at a cost not exceeding \$5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. Any such person shall have, from and after naturalization under this Act, the same citizenship status as that which existed immediately prior to its loss: *Provided*, That no such person shall be eligible to take the oath prescribed by section 337 of the Immigration and Nationality Act [section 1448 of this title] unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. Naturalization procured under this Act shall be subject to revocation as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title], and subsection (f) of that section [section 1451(f) of this title] shall apply to any person claiming United States citizenship through the naturalization of an individual under this Act.”

§ 1436. Nationals but not citizens; residence within outlying possessions

A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this subchapter, except that in applications for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this subchapter shall include residence and physical presence within any of the outlying possessions of the United States.

(June 27, 1952, ch. 477, title III, ch. 2, §325, 66 Stat. 248; Pub. L. 101-649, title IV, §407(c)(8), Nov. 29, 1990, 104 Stat. 5041.)

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-649 substituted “applications” for “petitions”.

§ 1437. Resident Philippine citizens excepted from certain requirements

Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent residence for the purpose of applying for naturalization under this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, §326, 66 Stat. 248; Pub. L. 101-649, title IV, §407(c)(9), Nov. 29, 1990, 104 Stat. 5041.)

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-649 substituted “applying” for “petitioning”.

§ 1438. Former citizens losing citizenship by entering armed forces of foreign countries during World War II

(a) Requirements; oath; certified copies of oath

Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of subchapter III of this chapter, except section 1427(a) of this title, and except as otherwise provided in subsection (b), be naturalized by taking before the Attorney General or before a court described in section 1421(b) of this title the oath required by section 1448 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice and by the Attorney General to the Secretary of State.

(b) Exceptions

No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a), 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; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Status

Any person naturalized in accordance with the provisions of this section, or any person who was

naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein, or in any other provision of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) Span of World War II

For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(e) Inapplicability to certain persons

This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States.

(June 27, 1952, ch. 477, title III, ch. 2, §327, 66 Stat. 248; Pub. L. 101-649, title IV, §407(d)(7), Nov. 29, 1990, 104 Stat. 5042.)

Editorial Notes

REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (c), which was classified to section 723 of this title, was repealed by section 403(a)(42) of act June 27, 1952. See subsec. (a) of this section.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-649 substituted “the Attorney General or before a court described in section 1421(b) of this title” for “any naturalization court specified in section 1421(a) of this title” and inserted “and by the Attorney General to the Secretary of State” before period at end.

Statutory Notes and Related Subsidiaries

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.

§ 1439. Naturalization through service in the armed forces

(a) Requirements

A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

(b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) no residence within a State or district of the Service in the United States shall be required;

(2) notwithstanding section 1429 of this title insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service;

(3) the applicant shall furnish to the Secretary of Homeland Security, prior to any hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable (the certificate or certificates herein provided for shall be conclusive evidence of such service and discharge); and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

(c) Periods when not in service

In the case such applicant's service was not continuous, the applicant's residence in the United States and State or district of the Service in the United States, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such application between the periods of applicant's service in the Armed Forces, shall be alleged in the application filed under the provisions of subsection (a) of this section, and proved at any hearing thereon. Such allegation and proof shall also be made as to any period between the termination of applicant's service and the filing of the application for naturalization.

(d) Residence requirements

The applicant shall comply with the requirements of section 1427(a) of this title, if the termination of such service has been more than six months preceding the date of filing the application for naturalization, except that such service within five years immediately preceding the date of filing such application shall be considered as residence and physical presence within the United States.

(e) Moral character

Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 1427(a) of this title.

(f) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.

(June 27, 1952, ch. 477, title III, ch. 2, § 328, 66 Stat. 249; Pub. L. 90-633, § 5, Oct. 24, 1968, 82 Stat. 1344; Pub. L. 97-116, § 15(e), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 101-649, title IV, § 407(b)(4), (c)(10), (d)(8), Nov. 29, 1990, 104 Stat. 5040-5042; Pub. L. 102-232, title III, § 305(c), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 108-136, div. A, title XVII, § 1701(a), (b)(1), (c)(1)(A), (f), Nov. 24, 2003, 117 Stat. 1691, 1692; Pub. L. 110-382, § 3(a), Oct. 9, 2008, 122 Stat. 4088.)

Editorial Notes**AMENDMENTS**

2008—Subsecs. (g), (h). Pub. L. 110-382, §§ 3(a), 4, temporarily added subsecs. (g) and (h) which related to processing and adjudication of applications for naturalization and required annual reports to Congress on failures to process and adjudicate certain applications within 1 year of filing due to delays in conducting required background checks. See Termination Date of 2008 Amendment note below.

2003—Subsec. (a). Pub. L. 108-136, § 1701(a), substituted “one year,” for “three years;”.

Subsec. (b)(3). Pub. L. 108-136, § 1701(f), substituted “Secretary of Homeland Security” for “Attorney General”.

Pub. L. 108-136, § 1701(b)(1)(A), substituted “honorable (the)” for “honorable. The” and “discharge; and” for “discharge.”

Subsec. (b)(4). Pub. L. 108-136, § 1701(b)(1)(B), added par. (4).

Subsec. (f). Pub. L. 108-136, § 1701(c)(1)(A), added subsec. (f).

1991—Subsecs. (b), (c). Pub. L. 102-232 amended directory language of Pub. L. 101-649, § 407(d)(8). See 1990 Amendment notes below.

1990—Subsec. (a). Pub. L. 101-649, § 407(b)(4)(A), (c)(10), substituted “State or district of the Service in the United States” for “State”, “for at least three

months” for “for at least six months”, and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b). Pub. L. 101-649, § 407(b)(4)(B), (c)(10), (d)(8), as amended by Pub. L. 102-232, substituted “within a State or district of the Service in the United States” for “within the jurisdiction of the court” in par. (1), “any hearing” for “the final hearing” in par. (3), and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101-649, § 407(b)(4)(C), (c)(10), (d)(8), as amended by Pub. L. 102-232, substituted “State or district of the Service in the United States” for “State”, “any hearing” for “the final hearing”, and references to applicant’s and application for references to petitioner’s and petition wherever appearing.

Subsec. (d). Pub. L. 101-649, § 407(c)(10), substituted references to applicant and application for references to petitioner and petition wherever appearing.

1981—Subsec. (b)(2). Pub. L. 97-116 struck out “and section 1447(c) of this title” after “relates to deportability” and “and the witnesses” after “petition, the petitioner”.

1968—Subsec. (b)(2). Pub. L. 90-633 inserted reference to section 1429 of this title as it relates to deportability.

Statutory Notes and Related Subsidiaries**CHANGE OF NAME**

Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of Committee on the Judiciary of the House of Representatives changed to Subcommittee on Immigration Policy and Enforcement of Committee on the Judiciary of the House of Representatives under Rule V(b) of the Committee’s rules of procedure adopted Jan. 19, 2011.

TERMINATION DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-382 repealed 5 years after Oct. 9, 2008, see section 4 of Pub. L. 110-382, set out as a note under section 271 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XVII, § 1701(c)(2), Nov. 24, 2003, 117 Stat. 1692, provided that: “The amendments made by paragraph (1) [amending this section and section 1440 of this title] shall apply to citizenship granted on or after the date of the enactment of this Act [Nov. 24, 2003].”

Pub. L. 108-136, div. A, title XVII, § 1705, Nov. 24, 2003, 117 Stat. 1696, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this title [enacting section 1443a of this title, amending this section and sections 1430, 1440 and 1440-1 of this title, and enacting provisions set out as notes under this section and sections 1151, 1430, and 1443a of this title] and the amendments made by this title shall take effect as if enacted on September 11, 2001.

“(b) EXCEPTION.—The amendments made by sections 1701(b) (relating to naturalization fees) [amending this section and section 1440 of this title] and 1701(d) (relating to naturalization proceedings overseas) [enacting section 1443a of this title] shall take effect on October 1, 2004.”

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.

§ 1440. Naturalization through active-duty service in the Armed Forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities

(a) Requirements

Any person who, while an alien or a noncitizen national of the United States, has served honorably as a member of the Selected Reserve of the Ready Reserve or in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as of the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment, reenlistment, extension of enlistment, or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, or on board a public vessel owned or operated by the United States for noncommercial service, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however,* That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of an application for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this chapter, except that—

- (1) he may be naturalized regardless of age, and notwithstanding the provisions of section 1429 of this title as they relate to deportability and the provisions of section 1442 of this title;
- (2) no period of residence or specified period of physical presence within the United States or any State or district of the Service in the United States shall be required;

(3) service in the military, air or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the applicant served or is serving, which shall state whether the applicant served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions; and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

(c) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.

(June 27, 1952, ch. 477, title III, ch. 2, §329, 66 Stat. 250; Pub. L. 87-301, §8, Sept. 26, 1961, 75 Stat. 654; Pub. L. 90-633, §§1, 2, 6, Oct. 24, 1968, 82 Stat. 1343, 1344; Pub. L. 97-116, §15(a), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100-525, §9(y), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, §407(b)(5), (c)(11), Nov. 29, 1990, 104 Stat. 5040, 5041; Pub. L. 102-232, title III, §305(b), Dec. 12, 1991, 105 Stat. 1749; Pub. L. 105-85, div. A, title X, §1080(a), Nov. 18, 1997, 111 Stat. 1916; Pub. L. 108-136, div. A, title XVII, §§1701(b)(2), (c)(1)(B), 1702, Nov. 24, 2003, 117 Stat. 1691-1693.)

Editorial Notes

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §1702, inserted “as a member of the Selected Reserve of the Ready Reserve or” after “has served honorably” in first sentence.

Subsec. (b). Pub. L. 108-136, §1701(b)(2), added par. (4).

Subsec. (c). Pub. L. 108-136, §1701(c)(1)(B), amended text generally. Prior to amendment, text read as follows: “Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.”

1997—Subsec. (a)(1). Pub. L. 105-85 inserted “, reenlistment, extension of enlistment,” after “at the time of enlistment” and “or on board a public vessel owned or operated by the United States for non-commercial service,” after “Swains Island.”

1991—Subsecs. (a), (b). Pub. L. 102-232 made technical correction to directory language of Pub. L. 101-649, §407(c)(11). See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101-649, §407(c)(11), as amended by Pub. L. 102-232, substituted “an application” for “a petition”.

Subsec. (b). Pub. L. 101-649, §407(c)(11), as amended by Pub. L. 102-232, substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b)(2). Pub. L. 101-649, §407(b)(5)(A), substituted “State or district of the Service in the United States” for “State” and inserted “and” at end.

Subsec. (b)(3), (4). Pub. L. 101-649, §407(b)(5)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which authorized filing of petition in any court having naturalization jurisdiction.

1988—Subsec. (d). Pub. L. 100-525 struck out subsec. (d) which read as follows: “The eligibility for naturalization of any person who filed a petition for naturalization prior to January 1, 1947, under section 701 of the Nationality Act of 1940, as amended (56 Stat. 182, 58 Stat. 886, 59 Stat. 658), and which is still pending on the effective date of this chapter, shall be determined in accordance with the provisions of this section.”

1981—Subsec. (b)(5). Pub. L. 97-116 struck out par. (5) which provided that, notwithstanding section 1447(c) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses have appeared before and been examined by a representative of the Service.

1968—Subsec. (a). Pub. L. 90-633, §1, added the Vietnam hostilities and any subsequent period of military operations involving armed conflict with a hostile foreign force as periods during which a person may be naturalized through service in active duty status.

Subsec. (b)(1). Pub. L. 90-633, §6, inserted reference to provisions of section 1429 of this title as they relate to deportability.

Subsec. (b)(4). Pub. L. 90-633, §2, inserted reference to the period of the Vietnam hostilities and to any other subsequent period which the President by Executive order designates as a period in which the Armed Forces of the United States were engaged in military operations involving armed conflict with a hostile foreign force.

1961—Subsecs. (a), (b)(4). Pub. L. 87-301 inserted “or during a period beginning June 25, 1950, and ending July 1, 1955”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 1701(c)(1)(B) of Pub. L. 108-136 applicable to citizenship granted on or after Nov. 24,

2003, see section 1701(c)(2) of Pub. L. 108-136, set out as a note under section 1439 of this title.

Amendment by section 1701(b)(2) of Pub. L. 108-136 effective Oct. 1, 2004, and amendments by sections 1701(c)(1)(B) and 1702 of Pub. L. 108-136 effective as if enacted Sept. 11, 2001, see section 1705 of Pub. L. 108-136, set out as a note under section 1439 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-85, div. A, title X, §1080(b), Nov. 18, 1997, 111 Stat. 1916, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to enlistments, reenlistments, extensions of enlistment, and inductions of persons occurring on or after the date of the enactment of this Act [Nov. 18, 1997].”

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.

NATURALIZATION OF NATIVES OF PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II

Pub. L. 102-395, title I, §113, Oct. 6, 1992, 106 Stat. 1844, which provided that, notwithstanding any other provision of law, effective 120 days after Oct. 6, 1992, and applicable to natives of the Philippines who applied for naturalization under section 405 of Pub. L. 101-649, set out below, and who applied within 2 years after such effective date, the naturalization of natives of the Philippines who apply for naturalization under section 405 of Pub. L. 101-649 was to be conducted in Philippines as well as in United States by employees of Immigration and Naturalization Service designated pursuant to section 1446(b) of this title, and required Attorney General to prescribe necessary implementing regulations and maintain permanent records of the oaths of allegiance taken in accordance with these provisions, was repealed by Pub. L. 105-119, title I, §112(c), Nov. 26, 1997, 111 Stat. 2460.

Pub. L. 101-649, title IV, §405, Nov. 29, 1990, 104 Stat. 5039, as amended by Pub. L. 103-416, title I, §104(d), Oct. 25, 1994, 108 Stat. 4308; Pub. L. 105-119, title I, §112(b), Nov. 26, 1997, 111 Stat. 2459, provided that section 1440(a)(1) and (2) of this title did not apply to the naturalization of certain persons born in the Philippines who served honorably in an active duty status during the World War II occupation and liberation of the Philippines within the Philippine Army or within a recognized guerilla unit or who served within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East at any time during the period beginning September 1, 1939, and ending December 31, 1946, who were otherwise eligible for naturalization under section 1440, and who applied for naturalization during the 2-year period beginning on Nov. 29, 1990.

NATURALIZATION OF ALIENS ENLISTED IN REGULAR ARMY

Act June 30, 1950, ch. 443, §4, 64 Stat. 316, as amended June 27, 1952, ch. 477, title IV, §402(e), 66 Stat. 276, provided that: “Notwithstanding the dates or periods of service specified and designated in section 329 of the

Immigration and Nationality Act [this section], the provisions of that section are applicable to aliens enlisted or reenlisted pursuant to the provisions of this Act and who have completed five or more years of military service, if honorably discharged therefrom. Any alien enlisted or reenlisted pursuant to the provisions of this Act who subsequently enters the United States, American Samoa, Swains Island, or the Canal Zone, pursuant to military orders shall, if otherwise qualified for citizenship, and after completion of five or more years of military service, if honorably discharged therefrom, be deemed to have been lawfully admitted to the United States for permanent residence within the meaning of such section 329(a) [subsection (a) of this section].”

Executive Documents

EX. ORD. NO. 12081. TERMINATION OF EXPEDITIOUS NATURALIZATION BASED ON MILITARY SERVICE

Ex. Ord. No. 12081, Sept. 18, 1978, 43 F.R. 42237, provided:

By the authority vested in me as President of the United States of America by Section 329 of the Immigration and Nationality Act, as amended by Sections 1 and 2 of the Act of October 24, 1968 (82 Stat. 1343; 8 U.S.C. 1440), and by the authority of Section 3 of that Act of October 24, 1968 (82 Stat. 1344; 8 U.S.C. 1440e), it is hereby ordered that the statutory period of Vietnam hostilities which began on February 28, 1961, shall be deemed to have terminated on October 15, 1978, for the purpose of ending the period in which active-duty service in the Armed Forces qualifies for certain exemptions from the usual requirements for naturalization, including length of residence and fees.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12582

Ex. Ord. No. 12582, Feb. 2, 1987, 52 F.R. 3395, which provided for expedited naturalization for aliens and noncitizens who served in the Armed Forces in the Grenada campaign by making them eligible in accordance with statutory exceptions in section 1440(b) of this title, was revoked, effective Feb. 2, 1987, by Ex. Ord. No. 12913, May 2, 1994, 59 F.R. 23115, such revocation not intended to affect status of anyone who was naturalized pursuant to terms of that order prior to the date of publication of Ex. Ord. No. 12582 in the Federal Register (May 4, 1994).

EX. ORD. NO. 12939. EXPEDITED NATURALIZATION OF ALIENS AND NONCITIZEN NATIONALS WHO SERVED IN ACTIVE-DUTY STATUS DURING PERSIAN GULF CONFLICT

Ex. Ord. No. 12939, Nov. 22, 1994, 59 F.R. 61231, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1440 of title 8, United States Code, and in order to provide expedited naturalization for aliens and noncitizen nationals who served in an active-duty status in the Armed Forces of the United States during the period of the Persian Gulf Conflict, it is hereby ordered as follows:

For the purpose of determining qualification for the exception from the usual requirements for naturalization, the period of Persian Gulf Conflict military operations in which the Armed Forces of the United States were engaged in armed conflict with a hostile force commenced on August 2, 1990, and terminated on April 11, 1991. Those persons serving honorably in active-duty status in the Armed Forces of the United States during this period are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 1440(b) of title 8, United States Code.

WILLIAM J. CLINTON.

EX. ORD. NO. 13269. EXPEDITED NATURALIZATION OF ALIENS AND NONCITIZEN NATIONALS SERVING IN AN ACTIVE-DUTY STATUS DURING THE WAR ON TERRORISM

Ex. Ord. No. 13269, July 3, 2002, 67 F.R. 45287, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) (the “Act”), and solely in order to provide expedited naturalization for aliens and noncitizen nationals serving in an active-duty status in the Armed Forces of the United States during the period of the war against terrorists of global reach, it is hereby ordered as follows:

For the purpose of determining qualification for the exception from the usual requirements for naturalization, I designate as a period in which the Armed Forces of the United States were engaged in armed conflict with a hostile foreign force the period beginning on September 11, 2001. Such period will be deemed to terminate on a date designated by future Executive Order. Those persons serving honorably in active-duty status in the Armed Forces of the United States, during the period beginning on September 11, 2001, and terminating on the date to be so designated, are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 329 of the Act. Nothing contained in this order is intended to affect, nor does it affect, any other power, right, or obligation of the United States, its agencies, officers, employees, or any other person under Federal law or the law of nations.

GEORGE W. BUSH.

§ 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