

country of origin may as a matter of discretion, or shall at the direction of the Secretary of State, accept an application for adjustment of status from such an alien.

(iii) **APPROVED PETITION.**—The alien must be the beneficiary of an approved petition under section 204 of the Act or have an approved petition that was filed pursuant to the evaluation system under section 203(b)(1)(A) of the Act;

(iv) **ADMISSIBILITY.**—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(v) **FEES AND PENALTIES.**—In addition to the fees payable to the Secretary of Homeland Security and Secretary of State in connection with the filing of an immigrant petition and application for adjustment of status, a Z-1 head of household must pay a \$4,000 penalty at the time of submission of any immigrant petition on his behalf, regardless of whether the alien submits such petition on his own behalf or the alien is the beneficiary of an immigrant petition filed by another party; and

(D) **EXEMPTIONS.**—Section 602(a)(1)(c)(ii) shall not apply to an alien who, on the date on which the application for adjustment of status is filed under this section, is exempted from the employment requirements under subsection (m)(1)(B)(iii).

(E) **FAILURE TO ESTABLISH LAWFUL ADMISSION TO THE UNITED STATES.**—Unless exempted under subparagraph (D), a Z immigrant who fails to depart and reenter the United States in accordance with paragraph (1) may not become a lawful permanent resident under this section.

(2) **Z-2 AND Z-3 NONIMMIGRANTS.**—

(A) **RESTRICTION ON VISA ISSUANCE OR ADJUSTMENT.**—An application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence of a Z-2 nonimmigrant or a Z-3 nonimmigrant under 18 years of age may not be approved before the adjustment of status of the alien's principal Z-1 nonimmigrant.

(B) **ADJUSTMENT OF STATUS.**—

(i) **ADJUSTMENT.**—Notwithstanding sections 245(a) and (c), the status of any Z-2 or Z-3 nonimmigrant may be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence.

(ii) **REQUIREMENTS.**—A Z-2 or Z-3 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, the following requirements:

(I) **STATUS.**—The alien must be in valid Z-2 or Z-3 nonimmigrant status;

(II) **APPROVED PETITION.**—The alien must be the beneficiary of an approved petition under section 204 of the Act or have an approved petition that was filed pursuant to the merit-based evaluation system under section 203(b)(1)(A) of the Act;

(III) **ADMISSIBILITY.**—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(IV) **FEES.**—The alien must pay the fees payable to the Secretary of Homeland Security and Secretary of State in connection with the filing of an immigrant petition and application for an immigrant visa; and

(3) **MAINTENANCE OF WAIVERS OF INADMISSIBILITY.**—The grounds of inadmissibility not applicable under section (d)(2) shall also be considered inapplicable for purposes of admission as an immigrant or adjustment pursuant to this subsection.

(4) **APPLICATION OF OTHER LAW.**—In processing applications under this subsection on behalf of aliens who have been battered or subjected to extreme cruelty, the Secretary shall apply—

(A) the provisions under section 204(a)(1)(J) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(J)); and

(B) the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

(5) **BACK OF THE LINE.**—An alien may not adjust status to that of a lawful permanent resident under this section until 30 days after an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 of the Act that were filed before May 1, 2005.

(6) **INELIGIBILITY FOR PUBLIC BENEFITS.**—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted under this section shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

(7) **MEDICAL EXAMINATION.**—An applicant for earned adjustment shall undergo an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

(8) **PAYMENT OF INCOME TAXES.**—

(A) **IN GENERAL.**—Not later than the date on which status is adjusted under this section, the applicant shall satisfy any applicable Federal tax liability accrued during the period of status by establishing that—

(i) no such tax liability exists;

(ii) all outstanding liabilities have been paid; or

(iii) the applicant has entered into, and is in compliance with, an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(B) **IRS COOPERATION.**—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to—

(i) the applicant, upon request, to establish the payment of all taxes required under this subsection; or

(ii) the Secretary, upon request, regarding the payment of Federal taxes by an alien applying for benefit under this section.

(9) **DEPOSIT OF FEES.**—Fees collected under this paragraph shall be deposited into the Immigration Examination Fee Account and shall remain available as provided under subsections (m) and (n) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

(10) **DEPOSIT OF PENALTIES.**—Penalties collected under this paragraph shall be deposited into the Temporary Worker Program Account and shall remain available as provided under section 286(w) of the Immigration and Nationality Act.

**SEC. 603. ADMINISTRATIVE REVIEW, REMOVAL PROCEEDINGS, AND JUDICIAL REVIEW FOR ALIENS WHO HAVE APPLIED FOR LEGAL STATUS.**

(a) **ADMINISTRATIVE REVIEW FOR ALIENS WHO HAVE APPLIED FOR STATUS UNDER THIS TITLE.**—

(1) **EXCLUSIVE REVIEW.**—Administrative review of a determination respecting nonimmigrant status under this title shall be conducted solely in accordance with this subsection.

(2) **ADMINISTRATIVE APPELLATE REVIEW.**—Except as provided in subparagraph (b)(2), an alien whose status under this title has been denied, terminated, or revoked may file not more than one appeal of the denial, termination, or rescission with the Secretary not later than 30 calendar days after the date of the decision or mailing thereof, whichever occurs later in time. The Secretary shall es-

tablish an appellate authority to provide for a single level of administrative appellate review of a denial, termination, or rescission of status under [this Act].

(3) **STANDARD FOR REVIEW.**—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional newly discovered or previously unavailable evidence as the administrative appellate review authority may decide to consider at the time of the determination.

(4) **LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.**—During the administrative appellate review process the alien may file not more than one motion to reopen or to reconsider. The Secretary's decision whether to consider any such motion is committed to the Secretary's discretion.

(b) **REMOVAL OF ALIENS WHO HAVE BEEN DENIED STATUS UNDER THIS TITLE.**—

(1) **SELF-INITIATED REMOVAL.**—Any alien who receives a denial under subsection (a) may request, not later than 30 calendar days after the date of the denial or the mailing thereof, whichever occurs later in time, that the Secretary place the alien in removal proceedings. The Secretary shall place the alien in removal proceedings to which the alien would otherwise be subject, unless the alien is subject to an administratively final order of removal, provided that no court shall have jurisdiction to review the timing of the Secretary's initiation of such proceedings. If the alien is subject to an administratively final order of removal, the alien may seek review of the denial under this section pursuant to subsection 242(h) as though the order of removal had been entered on the date of the denial, provided that the court shall not review the order of removal except as otherwise provided by law.

(2) **ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.**—

(i) **AGGRAVATED FELONS.**—Notwithstanding any other provision of this Act, an alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clause (1)(F)(ii) of subsection 601(d) of [this Act] because the alien has been convicted of an aggravated felony, as defined in paragraph 101(a)(43) of the INA, may be placed forthwith in proceedings pursuant to section 238(b) of the INA.

(ii) **OTHER CRIMINALS.**—Notwithstanding any other provision of this Act, any other alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clauses (1)(F)(i), (iii), or (iv) of subsection [CITE: 601(d)] of [this Act] may be placed forthwith in removal proceedings under section 240 of the INA.

(iii) **FINAL DENIAL, TERMINATION OR RESCSSION.**—The Secretary's denial, termination, or rescission of the status of any alien described in clauses (i) and (ii) of this subparagraph shall be final for purposes of subparagraph 242(h)(3)(C) of the INA and shall represent the exhaustion of all review procedures for purposes of subsections 601(h) (relating to treatment of applicants) and 601(o) (relating to termination of proceedings) of this Act, notwithstanding paragraph (a)(2) of this section.

(3) **LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.**—During the removal process under this subsection the alien may file not more than one motion to reopen or to reconsider. The Secretary's or Attorney General's decision whether to consider any such motion is committed to the Attorney General's discretion.

(c) **JUDICIAL REVIEW.**—Section 242 of the Immigration and Nationality Act is amended by adding at the end the following subsection (h):