

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 Z 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 a 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 establish 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-

(A) 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.

(B) 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.

(C) FINAL DENIAL, TERMINATION OR RESCISSION- 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):

`(h) Judicial Review of Eligibility Determinations Relating to Status Under Title VI of [this Act]-

`(1) EXCLUSIVE REVIEW- Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in this subsection, no court shall have jurisdiction to review a determination respecting an application for status under title VI of [this Act], including, without limitation, a denial, termination, or rescission of such status.

`(2) NO REVIEW FOR LATE FILINGS- An alien may not file an application for status under title VI of [this Act] beyond the period for receipt of such applications established by subsection 601(f) thereof. The denial of any application filed beyond the expiration of the period established by that subsection shall not be subject to judicial review or remedy.

`(3) REVIEW OF A DENIAL, TERMINATION, OR RESCISSION OF STATUS UNDER TITLE VI OF [THIS ACT]- A denial, termination, or rescission of status under subsection 601 of [this Act] may be reviewed only in conjunction with the judicial review of an order of removal under this section, provided that:

`(A) the venue provision set forth in (b)(2) shall govern;

`(B) the deadline for filing the petition for review in (b)(1) shall control;

`(C) the alien has exhausted all administrative remedies available to the alien as of right, including but not limited to the timely filing of an administrative appeal pursuant to subsection 603(a) of [this Act];

`(D) the court shall decide a challenge to the denial of status only on the administrative record on which the Secretary's denial, termination, or rescission was based;

`(E) LIMITATION ON REVIEW- Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or

any other habeas corpus provision, and sections 1361 and 1651 of such title, no court reviewing a denial, termination, or rescission of status under Title VI of [this Act] may review any discretionary decision or action of the Secretary regarding any application for or termination or rescission of such status; and

` (F) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER- The alien may file not more than one motion to reopen or to reconsider in proceedings brought under this section.

` (4) STANDARD FOR JUDICIAL REVIEW- Judicial review of the Secretary's denial, termination, or rescission of status under title VI of [this Act] relating to any alien shall be based solely upon the administrative record before the Secretary when he enters a final denial, termination, or rescission. The administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. The legal determinations are conclusive unless manifestly contrary to law.

` (5) CHALLENGES ON VALIDITY OF THE SYSTEM-

` (A) IN GENERAL- Any claim that title VI of [this Act], or any regulation, written policy, or written directive issued or unwritten policy or practice initiated by or under the authority of the Secretary of Homeland Security to implement that title, violates the Constitution of the United States or is otherwise in violation of law is available exclusively in an action instituted in the United States District Court for the District of Columbia in accordance with the procedures prescribed in this paragraph. Nothing in this subparagraph shall preclude an applicant for status under title VI of [this Act] from asserting that an action taken or decision made by the Secretary with respect to his status under that title was contrary to law in a proceeding under section 603 of [this Act] and paragraph (b)(2) of this section.

` (B) DEADLINES FOR BRINGING ACTIONS- Any action instituted under this paragraph,

(i) must, if it asserts a claim that title VI of [this Act] or any regulation, written policy, or written directive issued by or under the authority of the Secretary to implement that title violates the Constitution or is otherwise unlawful, be filed no later than one year after the date of the publication or promulgation of the challenged regulation, policy or directive or, in cases challenging the validity of the Act, within one year of enactment; and

(ii) must, if it asserts a claim that an unwritten policy or practice

initiated by or under the authority of the Secretary violates the Constitution or is otherwise unlawful, be filed no later than one year after the plaintiff knew or reasonably should have known of the unwritten policy or practice.

` (C) CLASS ACTIONS- Any claim described in subparagraph (A) that is brought as a class action shall be brought in conformity with Public Law 109-2 and the Federal Rules of Civil Procedure.'

` (D) PRECLUSIVE EFFECT- The final disposition of any claim brought under subparagraph (5)(A) shall be preclusive of any such claim asserted in a subsequent proceeding under this subsection or under subsection 603 [of this Act].

` (E) EXHAUSTION AND STAY OF PROCEEDINGS- No claim brought under this paragraph shall require the plaintiff to exhaust administrative remedies under subsection 603 of [this Act], but nothing shall prevent the court from staying proceedings under this paragraph to permit the Secretary to evaluate an allegation of an unwritten policy or practice or to take corrective action. In issuing such a stay, the court shall take into account any harm the stay may cause to the claimant. The court shall have no authority to stay proceedings initiated under any other section of the INA.'

## **SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.**

(a) IN GENERAL- Except as otherwise provided in this section, no Federal agency or bureau, or any officer or employee of such agency or bureau, may--

(1) use the information furnished by the applicant pursuant to an application filed under section 601 and 602, for any purpose, other than to make a determination on the application;

(2) make any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the sworn officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) REQUIRED DISCLOSURES- The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under section 601 and 602, and any other information derived from such furnished information, to--

(1) a law enforcement entity, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested by such entity;

(2) a law enforcement entity, intelligence agency, national security agency, or component of the Department of Homeland Security in connection with a duly authorized investigation of a civil violation, in each instance about an individual suspect or group of suspects, when such information is requested by such entity; or

(3) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(c) INAPPLICABILITY AFTER DENIAL- The limitations under subsection (a)--

(1) shall apply only until an application filed under section 601 and 602 is denied and all opportunities for administrative appeal of the denial have been exhausted; and

(2) shall not apply to the use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

(d) CRIMINAL CONVICTIONS- Notwithstanding any other provision of this section, information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement and law enforcement purposes.

(e) AUDITING AND EVALUATION OF INFORMATION- The Secretary may audit and evaluate information furnished as part of any application filed under sections 601 and 602, any application to extend such status under section 601 (k), or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS- If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602,

then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for status pursuant to sections 601 or 602 to make a determination on any petition or application.

(g) CRIMINAL PENALTY- Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

(h) CONSTRUCTION- Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an application filed under sections 601 or 602, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(i) REFERENCES- References in this section to section 601 or 602 are references to sections 601 and 602 of this Act and the amendments made by those sections.

## **SEC. 605. EMPLOYER PROTECTIONS.**

(a) Copies of employment records or other evidence of employment provided by an alien or by an alien's employer in support of an alien's application for Z nonimmigrant status shall not be used in a prosecution or investigation (civil or criminal) of that employer under section 247A (8 U.S.C. 1324a) or the tax laws of the United States for the prior unlawful employment of that alien, regardless of the adjudication of such application or reconsideration by the Secretary of such alien's prima facie eligibility determination.

(b) APPLICABILITY OF OTHER LAW- Nothing in this section may be used to shield an employer from liability under section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) or any other labor or employment law.

## **SEC. 606. ENUMERATION OF SOCIAL SECURITY NUMBER.**

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Z nonimmigrant status or any probationary benefits based upon application for such status.

## **SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.**

(a) INSURED STATUS- Section 214 of the Social Security Act (42 U.S.C. 414) is amended by striking subsection (c) and inserting the following new subsections:

`(c)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (d) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

`(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number prior to January 1, 2004.

`(d) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (c).'

(b) BENEFIT COMPUTATION- Section 215(e) of the Social Security Act (42 U.S.C.