

The Alien Minor Adjustment Act of 2010

Whereas, there are living in the United States of America (USA) a substantial number of persons who entered this nation as minors, and as minors had no legal ability to influence or stop such entry; and

Whereas, any such persons living in this nation today are illegal aliens, in such status through no wrongdoing of their own, but who suffer from significant legal disabilities and restrictions due solely to that status; and

Whereas, the purpose of this Act is to provide a means by which substantial numbers of such persons can adjust their status from illegal alien to permanent resident alien, or, in some cases, directly to United States citizenship.

Therefore, it is hereby enacted:

- (A) **Qualifications.** This Act applies to all persons who meet all of the criteria set forth in this section. Qualifying persons are defined more specifically as:
- (1) A person who entered the USA, prior to the effective date of this Act; and
 - (2) A person who had not yet attained the age of eighteen (18) years at the time of his or her entry into the USA; and
 - (3) A person who entered the USA illegally, or having entered legally, then illegally overstayed the terms and conditions of such permission to enter; and
 - (4) A person who has resided in the USA for five years or more as of the date of the filing of an application pursuant to this Act; and
 - (5) A person who has learned to read and write English at a minimum level of the American high school graduate, which shall be proved by such person supplying a valid high school diploma or a valid General Education Development (GED) diploma from an accredited institution within the United States of America; and
 - (6) A person who is of good moral character. A *prima facie* case for good moral character can be established by proving that the applicant has not accumulated more than two criminal history points as such are defined by the United States Sentencing Commission, subject to limitations contained in Section (C) of this Act, in its version of the U.S. Sentencing Guidelines, Sections 4A1.1 and 4A1.2, published for the year in which the person files application under this Act; and
 - (7) A person who, at the time of filing an application pursuant to this Act, has

attained the age of at least eighteen (18) years; and

- (8) A person who, for all periods of gainful employment while living in the USA, has filed all tax returns due and paid all taxes owed, whether to federal, state, or local governments. This requirement can be met by filing returns and paying any taxes owed, including all due late filing fees, penalties, and interest, prior to making application pursuant to this Act.
- (B) **Restriction on Future Application of this Act.** In consideration of the principles underlying border security, national sovereignty, and the possibility of future comprehensive immigration reform, this Act shall neither apply to nor benefit alien minors who enter the USA on or subsequent to the effective date of this Act.
- (C) **Limitations on Use of Certain Prior Convictions.**
- (1) Certain offenses shall never be counted in calculating the criminal history points defined in Section (A)(6) of this Act. No criminal offense shall be counted if
- (a) such offense relies on the alien status of the offender in order to sustain a conviction, or
 - (b) such offense resulted solely from the illegal alien's attempt to obtain identification documents in order to secure gainful employment or to secure an education, unless the offender's conduct resulted in actual, demonstrable harm to a living person, in which case it must be counted.
- (2) Offenses defined in Section (C)(1) of this Act may include, but are not limited to, illegal entry or re-entry into the USA, false statements on an I-9 Form, misuse of a real or purported Social Security Administration number, and possession of false or fraudulent identification documents.”
- (3) The applicant shall receive immunity from prosecution for any violations of the statutes specifically exempted from counting as criminal history points for purposes of this Act, as defined in the preceding Section. In order to assist the USCIS investigations into these applications, applicants are encouraged to self-report any such violations.
- (4) If any applicant's underlying offense behavior did in fact result in actual harm to a living person, then nothing in this Act shall be construed to grant immunity from prosecution for any such violations that become known as a result of the investigations required by this Act.
- (D) **Benefits.** All persons to whom all criteria established in Section (A) hereof apply, shall

upon application, investigation, and approval, be granted visas, entry permits, employment authorizations, and permanent resident alien status in the United States of America:

- (1) without regard to national quotas established by other statutes, if any, the provisions of which shall be subordinate to and controlled by this Act; and
 - (2) and without regard to waiting periods caused by backlogs of work at the United States Citizenship and Immigration Service (USCIS).
- (E) **Applications.** All persons to whom all criteria set forth in Section (A) hereof apply shall make application on forms prescribed by the USCIS and shall file same at the USCIS office with jurisdiction over the place of current residence of such person. USCIS shall make such forms readily available in both paper and electronic form to all persons who believe that they qualify under this statute.
- (F) **Confidentiality, Time Limitations, Appeal Rights.**
- (1) Information provided by any applicant filing pursuant to this Act shall remain confidential, and USCIS shall not share any such information with any other department, agency, or unit of any federal, state, or local government.
 - (2) All investigations required by this Act shall be completed by USCIS in no more than 180 days.
 - (3) If USCIS determines that the applicant qualifies pursuant to the provisions of this Act, then the applicant shall be notified that the investigation is complete and the applicant shall be issued a visa, an entry permit, an employment authorization, and a permanent resident alien card.
 - (4)
 - (a) If USCIS determines that the applicant does not qualify, then the applicant shall be notified that the investigation is complete and that the applicant has failed to qualify to receive any benefits pursuant to this Act, and such notice shall inform the applicant of the specific reasons why the application was denied.
 - (b) An appeal to the United States District Court may be taken from the denial by USCIS of any petition filed pursuant to this Act.
- (G) **United States Citizenship.** All persons to whom all criteria established in Section (A) of this Act shall apply, and who also meet certain criteria set forth in this Section, shall be entitled to immediately receive United States citizenship upon application made pursuant to this Act. To qualify under this Section, a person must have either have:

- (1) Served for at least thirty (30) months in the United States Army, Air Force, Navy, Marine Corps, or Coast Guard; and
 - (a) if still in the military at the time of making an application pursuant to this Act, continues to serve honorably and have no serious disciplinary actions pending, or
 - (b) if no longer in the military at the time of making an application pursuant to this Act, was honorably discharged from his or her branch of service.
 - (2) Been killed in the line of duty while serving in one of the named branches of the United States military, regardless of length of service, in which case United States citizenship shall be granted posthumously to that person upon application of his or her next of kin.
 - (3) The United States Army, Air Force, Navy, Marine Corps, and Coast Guard are hereby specifically authorized to waive the requirements of citizenship or permanent resident alien status in order to enlist in military service any persons who wish to enlist and who meet all of the criteria set forth in Section (A) of this Act and who are otherwise qualified for military service.
- (H) **Retroactivity.** This Act shall be applied retroactively to any person, regardless of present age, who meets all criteria set forth in Section (A) of this Act.
- (I) **Expungement of Certain Prior Convictions.** For all persons who apply for and receive a final decision granting the benefits of this Act, such persons may file a motion, in the United States District Court having jurisdiction in the location of the applicant's residence, seeking an order to vacate and expunge any convictions defined in Section (C) of this Act, which motion shall be granted.
- (J) **Repeal of Inconsistent Laws.** To the extent that any current statutes, clauses in statutes, rules, regulations, or provisions of law are inconsistent with the provisions of this Act, then such other statutes, clauses in statutes, rules, regulations, or provisions of law are hereby repealed.
- (K) **Effective Date.** This Act shall become effective July 4, 2010.

This Bill was authored in its entirety by Wayne Buchanan Eads, Attorney at Law, who can be contacted by telephone at (919) 833-3703, by telefax at (919) 833-0337, by email at eadslaw.com, or by mail at Post Office Box 25789, Raleigh, North Carolina, 27611-5789, USA.