



Extending Status Protection for Eligible Refugees with Established Residency (ESPERER) Act of 2017

H.R. 4184

Sec. 1: Short Title

- Extending Status Protection for Eligible Refugees with Established Residency Act of 2017, also known as the ESPERER Act of 2017.

Sec. 2: Adjustment of Status of Certain Foreign Nationals

- **Eligibility.** Provides for adjustment of status for nationals of Haiti, Nicaragua, El Salvador, and Honduras:
 - Who held TPS status on January 13, 2011 and hold TPS status on the date the adjustment application is filed;
 - Who were physically present in the U.S. on January 12, 2011; and
 - Who have been physically present in the U.S. for at least one year and are physically present on the date the adjustment application is filed. Physical presence will not be broken by absences of 180 days in the aggregate.
 - Who apply for adjustment of status before January 1, 2021.
- **Ineligibilities.** Individuals are not eligible if they:
 - Are inadmissible for:
 - Health-related grounds [INA §212(a)(1)]
 - Criminal and related grounds [INA §212(a)(2)]
 - Security and related grounds [INA §212(a)(3)]
 - Public charge [INA §212(a)(4)]
 - Alien smuggling [INA §212(a)(6)(E)]
 - Student visa abuse [INA §212(a)(6)(G)]
 - Permanent ineligibility for citizenship [INA §212(a)(8)]
 - Practicing polygamy [INA §212(a)(10)(A)]
 - International child abduction [INA §212(a)(10)(C)]
 - Unlawful voting [INA §212(a)(10)(D)]
 - Are deportable for:

- Alien smuggling [INA §237(a)(1)(E)]
 - Marriage Fraud [INA §237(a)(1)(G)]
 - Criminal offenses [INA §237(a)(2)]
 - Security and related grounds (INA §237(a)(4)]
 - Public charge [INA §237(a)(5)]
 - Unlawful voting [INA §237(a)(6)]
- Have ordered, incited, assisted, or participated in the persecution of others.
- Have been convicted of any federal or state offense punishable by a maximum term of imprisonment of more than one year, OR 3 or more offenses, where the convictions took place on different dates and the aggregate prison sentence amounted to 90 days or more.
- **Effect of Prior Removal Order.** Individuals with prior removal orders or voluntary departure orders may apply, and shall not be required to file a motion to reopen, reconsider, or vacate the order. The removal or voluntary departure order shall be cancelled if the application for adjustment of status is granted. If the adjustment application is denied, the removal or voluntary departure order remains effective and enforceable.
- **Stay of Removal.** Requires DHS to issue regulations staying any final order of removal upon filing the adjustment application.
- **Effect of Pending Removal Proceedings.** Prohibits DHS from ordering removed, any individual who is eligible for adjustment under the Act, unless/until a final administrative order denying adjustment has been issued.
- **Work Authorization.** Permits DHS to grant work authorization to adjustment applicants, and mandates work authorization where the adjustment application remains pending for more than 180 days.
- **Spouses and Children.** Spouses, children, and unmarried sons/daughters of the principal applicant are also eligible for adjustment of status if:
 - They file for adjustment and are physically present in the U.S. on the date the application is filed.
 - Unmarried sons/daughters must have been physically present in the U.S. for at least one year.
 - They are otherwise eligible for an immigrant visa and are admissible, except INA §212(a)(4) [**public charge**], (5) [**labor certification**], (6)(A) [**presence without admission or parole**], and (7)(A) [**documentary requirements**] shall not apply.
- **Administrative Review.** Applicants for adjustment under this Act are entitled to the same administrative right to and procedures for review provided to adjustment applicants under INA §245 or individuals subject to removal proceedings under INA §240.
- **Judicial Review.** The decision of DHS on an adjustment application under this Act is not subject to judicial review.
- **Visa Numbers.** A grant of adjustment of status under this Act shall not reduce the number of visas authorized to be issued under any provision of the INA.