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LEGAL NOTES

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Bad News to Professionals, Good news to illegals

The State Department's predicting that the employment-based third preference for Filipinos may regress before Sept. 30, the end of the fiscal year. This means that a cut-off date will be established and third preference beneficiaries whose priority date falls after that date will have to wait longer for their green card because visa numbers will not be available to them.

Beneficiaries of approved I-140 petitions with priority date after the cut-off will not be able to file for adjustment of status. If their non-immigrant status expires, their presence in the U.S. will be considered unlawful and they would be subject to deportation.

The employment-based third preference covers professionals with bachelor's degree and skilled workers with at least two years of training or experience. This category includes computer professionals, teachers, nurses, accountants, therapists, engineers, medical technologists and specialty cooks.

The reason for the regression is the sudden surge in the process-

ing of adjustment applications for health care workers. For the past four or five years, their applications were put on hold because of a new law that required them to submit a visa screen certificate. Starting last year, these certificates were issued to hundreds of these workers at almost the same time resulting in the increased demand for visa numbers.

Because of the quota imposed on each country, visa numbers allotted to the Philippine may be used up early. Those whose application for adjustment of status are pending but who fail to get their immigrant visa number before the cut off date will be placed on a waiting list. Their applications will be processed in the order of their priority dates.

During the time that they are on the waiting list, they will be allowed to stay and work as long as they obtain their employment authorization. They may also be allowed to leave the U.S., provided they secure an advanced parole document, from the INS.

Before the regression, beneficiaries of I-140 petitions should immediately file their adjustment of status application to enable them to legally stay and work.

The Clinton administration has recommended to Congress legislation that would allow qualified aliens who have resided in the U.S. since 1986 to become lawful permanent residents.

This will amend the existing law known as registry which has been in the status since 1929.

Under the current registry provision, an alien who entered the U.S. before January 1, 1972 can become a permanent resident provided he has continuously resided in the U.S. since, his entry, is of good moral character and is not inadmissible under the exclusion provisions relating to criminals, procurers, alien smugglers and narcotics law violators. An immigrant visa number need not be available from his native country. And unlike the 1986 amnesty, law may have been in the country legally.

According to the White House, moving the registry date from 1972 to 1986 would not only provide humanitarian relief to many long-term migrants, but would also reduce or eliminate the need to continue litigating some of the large class actions resulting from the 1986 law.