

# THE FILIPINO **EXPRESS**

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## **Old Amnesty Program Modified**

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Among the several good news that the LIFE Act (recently signed into law by President Clinton) brings is the revision of the 1986 amnesty program, also known as Section 245A of the Immigration and Naturalization Act. This new law provides relief to those individuals who were part of class action lawsuits filed against the INS for its misapplication of the said program.

Under the 1986 law, a number of undocumented Filipinos regularized their immigration status and eventually became permanent residents. However, many others were unable to meet the application deadline.

### **Relief for Aliens Provided by the Law**

By way of this relief, qualified applicants can immediately apply for permanent resident status instead of temporary residence. Likewise, the Attorney General is obliged to undertake a process which will allow an alien, who is rendered eligible to apply for adjustment of status due to the enactment of this law but is not physically present in the U.S., to apply abroad. Furthermore, applicants who apply under this law are protected from deportation and are granted the privileges of work authorization and travel permit pending their application. As opposed to the original Section 245A, which disentitled applicants from receiving specific types of assistance for five years upon the filing of their application, the new law allows newly legalized persons to obtain public welfare assistance (although they are still subject to restrictions of the 1996 Welfare Reform Law).

### **Qualifications for Aliens**

To be eligible, the alien must establish that he or she:

- a. filed a written claim for class membership by October 1, 2000 in one of the several class action lawsuits (CSS, Lulac, and Zambrano) against the INA on the grounds of mishandling the 1986 amnesty program
- b. entered the U.S. before January 1, 1982 and resided continuously in the U.S. in an unlawful status until May 4, 1988.
- c. was continuously physically present in the U.S. from November 6, 1986 to May 4, 1988
- d. is applying for adjustment of status within one year of the issuance of final regulations

- e. was not found guilty of felony or three or more misdemeanors, did not take part in the persecution of any person (due to membership in a particular social group, nationality, political opinion, race, or religion), or is enlisted or enlisting under the Military Selective Service Act, if required
- f. is admissible to the U.S. as an immigrant. The Attorney General, for humanitarian reasons, may waive any of the inadmissibility grounds, excluding those relating to criminal activity, drug offenses, threats to security, and public charge.
- g. is able to pass the naturalization exam regarding comprehension of basic civics and aptitude for speaking, reading, and writing English, or demonstrate that he or she is taking a course of study accredited by the Attorney General to gain an adequate understanding of civics and English

#### Relief for Spouses and Children of Late Legalization Applicants

In concordance with the 1990 laws that aimed to protect the families of legalization applicants who were already in the U.S., the LIFE Act offers protection to spouses and minor children of late legalization applicants.

Under the law, eligible people will be protected from deportation for status violations in the U.S. (although criminal activity is still a ground for deportation). Furthermore, they will be entitled to work authorization. Lastly, eligible spouses and children, by means of the process to be effected by the Attorney General, may be paroled into the U.S. to access the benefits of the applicant under the LIFE Act's late legalization provisions.

The spouse or unmarried child must be able to substantiate his or her relationship to the person eligible for adjustment of status by virtue of the late legalization provisions of the LIFE Act. It must be proven as well that he or she entered and resided in the U.S. before December 1, 1998. Lastly, he or she must have not been convicted of a felony or three or more misdemeanors in the U.S., not taken part in the persecution of any person (due to membership in a particular social group, nationality, political opinion, race, or religion), or is a threat to U.S. society.