

115TH CONGRESS
1ST SESSION

H. R. 2161

To adjust the immigration status of certain Venezuelan nationals who are
in the United States.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2017

Mr. CURBELO of Florida (for himself, Mr. SOTO, Ms. ROS-LEHTINEN, and
Ms. WASSERMAN SCHULTZ) introduced the following bill; which was re-
ferred to the Committee on the Judiciary

A BILL

To adjust the immigration status of certain Venezuelan
nationals who are in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Venezuelan Refugee
5 Assistance Act”.

6 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN VEN-**
7 **EZUELAN NATIONALS.**

8 (a) ADJUSTMENT OF STATUS.—

9 (1) IN GENERAL.—Notwithstanding section
10 245(c) of the Immigration and Nationality Act (8

1 U.S.C. 1255(c)), the status of any alien described in
2 subsection (b) shall be adjusted by the Secretary of
3 Homeland Security to that of an alien lawfully ad-
4 mitted for permanent residence, if the alien—

5 (A) applies for such adjustment before
6 January 1, 2021;

7 (B) is not inadmissible under paragraph
8 (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A),
9 (10)(C), or (10)(D) of section 212(a) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1182(a));

12 (C) is not deportable under paragraph
13 (1)(E), (1)(G), (2), (4), (5), or (6) of section
14 237(a) of such Act (8 U.S.C. 1227(a));

15 (D) has not ordered, incited, assisted, or
16 otherwise participated in the persecution of any
17 person on account of race, religion, nationality,
18 membership in a particular social group, or po-
19 litical opinion; and

20 (E) has not been convicted of—

21 (i) any offense under Federal or State
22 law punishable by a maximum term of im-
23 prisonment of more than 1 year; or

24 (ii) 3 or more offenses under Federal
25 or State law, for which the alien was con-

1 victed on different dates for each of the 3
2 offenses and sentenced to imprisonment
3 for an aggregate of 90 days or more.

4 (2) RELATIONSHIP OF APPLICATION TO CER-
5 TAIN ORDERS.—An alien present in the United
6 States who has been ordered removed, or ordered to
7 depart voluntarily, from the United States under
8 any provision of the Immigration and Nationality
9 Act may, notwithstanding such order, apply for ad-
10 justment of status under paragraph (1). Such an
11 alien may not be required, as a condition on submit-
12 ting or granting such application, to file a motion to
13 reopen, reconsider, or vacate such order. If the Sec-
14 retary of Homeland Security grants the application,
15 the Secretary of Homeland Security shall cancel the
16 order. If the Secretary of Homeland Security ren-
17 ders a final administrative decision to deny the ap-
18 plication, the order shall be effective and enforceable
19 to the same extent as if the application had not been
20 made.

21 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
22 TUS.—The benefits provided by subsection (a) shall apply
23 to any alien who is a national of Venezuela—

24 (1) who was physically present in the United
25 States on January 1, 2013; and

1 (2) has been physically present in the United
2 States for at least 1 year and is physically present
3 in the United States on the date the application for
4 adjustment of status under this Act is filed, except
5 an alien shall not be considered to have failed to
6 maintain continuous physical presence by reason of
7 an absence, or absences, from the United States for
8 any periods in the aggregate not exceeding 180
9 days.

10 (c) STAY OF REMOVAL.—

11 (1) IN GENERAL.—The Secretary of Homeland
12 Security shall provide by regulation for an alien sub-
13 ject to a final order of removal to seek a stay of
14 such order based on the filing of an application
15 under subsection (a).

16 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
17 standing any provision of the Immigration and Na-
18 tionality Act (8 U.S.C. 1101 et seq.), the Secretary
19 of Homeland Security shall not order any alien to be
20 removed from the United States, if the alien is in re-
21 moval proceedings under any provision of such Act
22 and raises as a defense to such an order the eligi-
23 bility of the alien to apply for adjustment of status
24 under subsection (a), except where the Secretary of

1 Homeland Security has rendered a final administra-
2 tive determination to deny the application.

3 (3) WORK AUTHORIZATION.—The Secretary of
4 Homeland Security may authorize an alien who has
5 applied for adjustment of status under subsection
6 (a) to engage in employment in the United States
7 during the pendency of such application and may
8 provide the alien with an “employment authorized”
9 endorsement or other appropriate document signi-
10 fying authorization of employment, except that if
11 such application is pending for a period exceeding
12 180 days, and has not been denied, the Secretary of
13 Homeland Security shall authorize such employment.

14 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
15 CHILDREN.—

16 (1) IN GENERAL.—Notwithstanding section
17 245(c) of the Immigration and Nationality Act (8
18 U.S.C. 1255(c)), the status of an alien shall be ad-
19 justed by the Secretary of Homeland Security to
20 that of an alien lawfully admitted for permanent res-
21 idence, if—

22 (A) the alien is the spouse, child, or un-
23 married son or daughter, of an alien whose sta-
24 tus is adjusted to that of an alien lawfully ad-
25 mitted for permanent residence under sub-

1 section (a), except that in the case of such an
2 unmarried son or daughter, the son or daughter
3 shall be required to establish that they have
4 been physically present in the United States for
5 at least 1 year;

6 (B) the alien applies for such adjustment
7 and is physically present in the United States
8 on the date the application is filed; and

9 (C) the alien is otherwise eligible to receive
10 an immigrant visa and is otherwise admissible
11 to the United States for permanent residence,
12 except in determining such admissibility the
13 grounds for exclusion specified in paragraphs
14 (4), (5), (6)(A), and (7)(A) of section 212(a) of
15 the Immigration and Nationality Act (8 U.S.C.
16 1182(a)) shall not apply.

17 (2) PROOF OF CONTINUOUS PRESENCE.—For
18 purposes of establishing the period of continuous
19 physical presence referred to in paragraph (1)(B),
20 an alien shall not be considered to have failed to
21 maintain continuous physical presence by reason of
22 an absence, or absences, from the United States for
23 any periods in the aggregate not exceeding 180
24 days.

1 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
2 The Secretary of Homeland Security shall provide to ap-
3 plicants for adjustment of status under subsection (a) the
4 same right to, and procedures for, administrative review
5 as are provided to—

6 (1) applicants for adjustment of status under
7 section 245 of the Immigration and Nationality Act
8 (8 U.S.C. 1255); or

9 (2) aliens subject to removal proceedings under
10 section 240 of such Act (8 U.S.C. 1229a).

11 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-
12 mination by the Secretary of Homeland Security as to
13 whether the status of any alien should be adjusted under
14 this Act is final and shall not be subject to review by any
15 court.

16 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
17 When an alien is granted the status of having been law-
18 fully admitted for permanent residence pursuant to this
19 Act, the Secretary of State shall not be required to reduce
20 the number of immigrant visas authorized to be issued
21 under any provision of the Immigration and Nationality
22 Act.

23 (h) APPLICATION OF IMMIGRATION AND NATION-
24 ALITY ACT PROVISIONS.—Except as otherwise specifically
25 provided in this section, the definitions contained in the

1 Immigration and Nationality Act shall apply in the admin-
2 istration of this Act. Nothing contained in this Act shall
3 be held to repeal, amend, alter, modify, effect, or restrict
4 the powers, duties, functions, or authority of the Secretary
5 of Homeland Security in the administration and enforce-
6 ment of such Act or any other law relating to immigration,
7 nationality, or naturalization. The fact that an alien may
8 be eligible to be granted the status of having been lawfully
9 admitted for permanent residence under this section shall
10 not preclude the alien from seeking such status under any
11 other provision of law for which the alien may be eligible.

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