

105TH CONGRESS  
1ST SESSION

# H. R. 3033

To adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 12, 1997

Mrs. MEEK of Florida (for herself, Ms. BROWN of Florida, and Mr. HASTINGS of Florida) introduced the following bill; which was referred to the Committee on Judiciary

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## A BILL

To adjust the immigration status of certain Haitian nationals who were provided refuge 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 “Haitian Refugee Immi-  
5       gration Fairness Act of 1997”.

6       **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NA-**  
7       **TIONALS.**

8       (a) ADJUSTMENT OF STATUS.—

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

1 status of any alien described in subsection (b) shall  
2 be adjusted by the Attorney General to that of an  
3 alien lawfully admitted for permanent residence, if  
4 the alien—

5 (A) applies for such adjustment before  
6 April 1, 2000; and

7 (B) is otherwise eligible to receive an im-  
8 migrant visa and is otherwise admissible to the  
9 United States for permanent residence, except  
10 in determining such admissibility the grounds  
11 for inadmissibility specified in paragraphs (4),  
12 (5), (6)(A), and (7)(A) of section 212(a) of the  
13 Immigration and Nationality Act shall not  
14 apply.

15 (2) RELATIONSHIP OF APPLICATION TO CER-  
16 TAIN ORDERS.—An alien present in the United  
17 States who has been ordered excluded, deported, re-  
18 moved, or ordered to depart voluntarily, from the  
19 United States under any provision of the Immigra-  
20 tion and Nationality Act may, notwithstanding such  
21 order, apply for adjustment of status under para-  
22 graph (1). Such an alien may not be required, as a  
23 condition on submitting or granting such applica-  
24 tion, to file a motion to reopen, reconsider, or vacate  
25 such order. If the Attorney General grants the appli-

1 cation, the Attorney General shall cancel the order.  
2 If the Attorney General renders a final administra-  
3 tive decision to deny the application, the order shall  
4 be effective and enforceable to the same extent as if  
5 the application had not been made.

6 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
7 TUS.—The benefits provided by subsection (a) shall apply  
8 to any alien who is a national of Haiti—

9 (1) who—

10 (A) was physically present in the United  
11 States on December 31, 1995;

12 (B) filed for asylum before December 31,  
13 1995; or

14 (C) was paroled into the United States—

15 (i) prior to December 31, 1995, after  
16 having been identified as having a credible  
17 fear of persecution; or

18 (ii) for emergent reasons or reasons  
19 deemed strictly in the public interest; and

20 (2) has been physically present in the United  
21 States for at least 1 year and is physically present  
22 in the United States on the date the application for  
23 adjustment of status under this Act is filed, except  
24 an alien shall not be considered to have failed to  
25 maintain continuous physical presence by reason of

1 an absence, or absences, from the United States for  
2 any periods in the aggregate not exceeding 180  
3 days.

4 (c) STAY OF REMOVAL.—

5 (1) IN GENERAL.—The Attorney General shall  
6 provide by regulation for an alien subject to a final  
7 order of deportation, removal, or exclusion to seek a  
8 stay of such order based on the filing of an applica-  
9 tion under subsection (a).

10 (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
11 standing any provision of the Immigration and Na-  
12 tionality Act, the Attorney General shall not order  
13 any alien to be removed from the United States, if  
14 the alien is in exclusion, deportation, or removal pro-  
15 ceedings under any provision of such Act and raises  
16 as a defense to such an order the eligibility of the  
17 alien to apply for adjustment of status under sub-  
18 section (a), except where the Attorney General has  
19 rendered a final administrative determination to  
20 deny the application.

21 (3) WORK AUTHORIZATION.—The Attorney  
22 General may authorize an alien who has applied for  
23 adjustment of status under subsection (a) to engage  
24 in employment in the United States during the  
25 pendency of such application and may provide the

1 alien with an “employment authorized” endorsement  
2 or other appropriate document signifying authoriza-  
3 tion of employment, except that if such application  
4 is pending for a period exceeding 180 days, and has  
5 not been denied, the Attorney General shall author-  
6 ize such employment.

7 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
8 CHILDREN.—

9 (1) IN GENERAL.—Notwithstanding section  
10 245(c) of the Immigration and Nationality Act, the  
11 status of an alien shall be adjusted by the Attorney  
12 General to that of an alien lawfully admitted for per-  
13 manent residence, if—

14 (A) the alien is a national of Haiti;

15 (B) the alien is the spouse, child, or un-  
16 married son or daughter, of an alien whose sta-  
17 tus is adjusted to that of an alien lawfully ad-  
18 mitted for permanent residence under sub-  
19 section (a), except that in the case of such an  
20 unmarried son or daughter, the son or daughter  
21 shall be required to establish that they have  
22 been physically present in the United States for  
23 at least 1 year;

1           (C) the alien applies for such adjustment  
2           and is physically present in the United States  
3           on the date the application is filed; and

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

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

20          (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
21          The Attorney General shall provide to applicants for ad-  
22          justment of status under subsection (a) the same right to,  
23          and procedures for, administrative review as are provided  
24          to—

1           (1) applicants for adjustment of status under  
2           section 245 of the Immigration and Nationality Act;  
3           or

4           (2) aliens subject to removal proceedings under  
5           section 240 of such Act.

6           (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
7           mination by the Attorney General as to whether the status  
8           of any alien should be adjusted under this Act is final and  
9           shall not be subject to review by any court.

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

17          (h) APPLICATION OF IMMIGRATION AND NATIONAL-  
18          ITY ACT PROVISIONS.—Except as otherwise specifically  
19          provided in this section, the definitions contained in the  
20          Immigration and Nationality Act shall apply in the admin-  
21          istration of this Act. Nothing contained in this Act shall  
22          be held to repeal, amend, alter, modify, effect, or restrict  
23          the powers, duties, functions, or authority of the Attorney  
24          General in the administration and enforcement of such  
25          Act or any other law relating to immigration, nationality,

1 or naturalization. The fact that an alien may be eligible  
2 to be granted the status of having been lawfully admitted  
3 for permanent residence under this section shall not pre-  
4 clude the alien from seeking such status under any other  
5 provision of law for which the alien may be eligible.

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