AMENDMENT TO H.R. 6136
OFFERED BY MR. HASTINGS OF FLORIDA
(Border Security and Immigration Reform Act of 2018)

At the end of title II of division B, add the following:

SEC. 2108. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NATIONALS.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and
Nationality Act (8 U.S.C. 1255(c)), the status of any alien described in
subsection (b) shall be adjusted by the Secretary of Homeland Security to
that of an alien lawfully admitted for permanent residence, if the alien—

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

(B) is not inadmissible under paragraph (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A),
(10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C.
1182(a));
(C) is not deportable under paragraph 1(1)(E), (1)(G), (2), (4), (5), or (6) of section 237(a) of such Act (8 U.S.C. 1227(a));

(D) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(E) has not been convicted of—

(i) any offense under Federal or State law punishable by a maximum term of imprisonment of more than 1 year; or

(ii) 3 or more offenses under Federal or State law, for which the alien was convicted on different dates for each of the 3 offenses and sentenced to imprisonment for an aggregate of 90 days or more.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered removed, or ordered to depart voluntarily, from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submit-
ting or granting such application, to file a motion to 
reopen, reconsider, or vacate such order. If the Sec-
retary of Homeland Security grants the application,
the Secretary of Homeland Security shall cancel the 
order. If the Secretary of Homeland Security ren-
ders a final administrative decision to deny the ap-
lication, the order shall be effective and enforceable 
to the same extent as if the application had not been 
made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
TUS.—The benefits provided by subsection (a) shall apply 
to any alien—

(1) who is a national of Haiti, Nicaragua, El 
Salvador, or Honduras;

(2) who is in temporary protected status under 
section 244 of the Immigration and Nationality Act 
(8 U.S.C. 1254a)—

(A) on January 13, 2011; and 

(B) on the date of the application for ad-
justment of status under this Act is filed;

(3) who was physically present in the United 
States on January 12, 2011; and

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

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Secretary of Homeland Security shall provide by regulation for an alien subject to a final order of removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security shall not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and raises as a defense to such an order the eligibility of the alien to apply for adjustment of status under subsection (a), except where the Secretary of Homeland Security has rendered a final administrative determination to deny the application.

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

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

(1) IN GENERAL.—Notwithstanding section 245(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)), the status of an alien shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have
been physically present in the United States for at least 1 year;

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

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

(2) Proof of Continuous Presence.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(c) Classification as a Nonimmigrant.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) and change of nonimmigrant classification under section 248
of such Act (8 U.S.C. 1258), aliens described in sub-
sections (b) and (d) shall be considered as having been
inspected and admitted into the United States, and as
being in, and maintaining, lawful status as a non-
immigrant.

(f) Availability of Administrative Review.—
The Secretary of Homeland Security shall provide to ap-
plicants for adjustment of status under subsection (a) the
same right to, and procedures for, administrative review
as are provided to—

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

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

(g) Limitation on Judicial Review.—A deter-
mination by the Secretary of Homeland Security as to
whether the status of any alien should be adjusted under
this Act is final and shall not be subject to review by any
court.

(h) No Offset in Number of Visas Available.—
When an alien is granted the status of having been law-
fully admitted for permanent residence pursuant to this
Act, the Secretary of State shall not reduce the number
of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(i) Application of Immigration and Nationality Act Provisions.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Secretary of Homeland Security in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.