

**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:

1 **SEC. 2108. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN**  
2 **NATIONALS.**

3 (a) ADJUSTMENT OF STATUS.—

4 (1) IN GENERAL.—Notwithstanding section  
5 245(c) of the Immigration and Nationality Act (8  
6 U.S.C. 1255(c)), the status of any alien described in  
7 subsection (b) shall be adjusted by the Secretary of  
8 Homeland Security to that of an alien lawfully ad-  
9 mitted for permanent residence, if the alien—

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

12 (B) is not inadmissible under paragraph  
13 (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A),  
14 (10)(C), or (10)(D) of section 212(a) of the Im-  
15 migration and Nationality Act (8 U.S.C.  
16 1182(a));

1 (C) is not deportable under paragraph  
2 (1)(E), (1)(G), (2), (4), (5), or (6) of section  
3 237(a) of such Act (8 U.S.C. 1227(a));

4 (D) has not ordered, incited, assisted, or  
5 otherwise participated in the persecution of any  
6 person on account of race, religion, nationality,  
7 membership in a particular social group, or po-  
8 litical opinion; and

9 (E) has not been convicted of—

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

13 (ii) 3 or more offenses under Federal  
14 or State law, for which the alien was con-  
15 victed on different dates for each of the 3  
16 offenses and sentenced to imprisonment  
17 for an aggregate of 90 days or more.

18 (2) RELATIONSHIP OF APPLICATION TO CER-  
19 TAIN ORDERS.—An alien present in the United  
20 States who has been ordered removed, or ordered to  
21 depart voluntarily, from the United States under  
22 any provision of the Immigration and Nationality  
23 Act may, notwithstanding such order, apply for ad-  
24 justment of status under paragraph (1). Such an  
25 alien may not be required, as a condition on submit-

1       ting or granting such application, to file a motion to  
2       reopen, reconsider, or vacate such order. If the Sec-  
3       retary of Homeland Security grants the application,  
4       the Secretary of Homeland Security shall cancel the  
5       order. If the Secretary of Homeland Security ren-  
6       ders a final administrative decision to deny the ap-  
7       plication, the order shall be effective and enforceable  
8       to the same extent as if the application had not been  
9       made.

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

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

15               (2) who is in temporary protected status under  
16       section 244 of the Immigration and Nationality Act  
17       (8 U.S.C. 1254a)—

18                       (A) on January 13, 2011; and

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

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

23               (4) who has been physically present in the  
24       United States for at least 1 year and is physically  
25       present in the United States on the date the applica-

1       tion for adjustment of status under this Act is filed,  
2       except an alien shall not be considered to have failed  
3       to maintain continuous physical presence by reason  
4       of an absence, or absences, from the United States  
5       for any periods in the aggregate not exceeding 180  
6       days.

7       (c) STAY OF REMOVAL.—

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

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

24          (3) WORK AUTHORIZATION.—The Secretary of  
25      Homeland Security may authorize an alien who has

1 applied for adjustment of status under subsection  
2 (a) to engage in employment in the United States  
3 during the pendency of such application and may  
4 provide the alien with a “work authorized” endorse-  
5 ment or other appropriate document signifying au-  
6 thorization of employment, except that if such appli-  
7 cation is pending for a period exceeding 180 days,  
8 and has not been denied, the Secretary of Homeland  
9 Security shall authorize such employment.

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

12 (1) IN GENERAL.—Notwithstanding section  
13 245(c) of the Immigration and Nationality Act (8  
14 U.S.C. 1255(c)), the status of an alien shall be ad-  
15 justed by the Secretary of Homeland Security to  
16 that of an alien lawfully admitted for permanent res-  
17 idence, if—

18 (A) the alien is the spouse, child, or un-  
19 married son or daughter, of an alien whose sta-  
20 tus is adjusted to that of an alien lawfully ad-  
21 mitted for permanent residence under sub-  
22 section (a), except that in the case of such an  
23 unmarried son or daughter, the son or daughter  
24 shall be required to establish that they have

1           been physically present in the United States for  
2           at least 1 year;

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

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

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

22          (e) CLASSIFICATION AS A NONIMMIGRANT.—For pur-  
23          poses of adjustment of status under section 245 of the  
24          Immigration and Nationality Act (8 U.S.C. 1255) and  
25          change of nonimmigrant classification under section 248

1 of such Act (8 U.S.C. 1258), aliens described in sub-  
2 sections (b) and (d) shall be considered as having been  
3 inspected and admitted into the United States, and as  
4 being in, and maintaining, lawful status as a non-  
5 immigrant.

6 (f) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
7 The Secretary of Homeland Security shall provide to ap-  
8 plicants for adjustment of status under subsection (a) the  
9 same right to, and procedures for, administrative review  
10 as are provided to—

11 (1) applicants for adjustment of status under  
12 section 245 of the Immigration and Nationality Act  
13 (8 U.S.C. 1255); or

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

16 (g) LIMITATION ON JUDICIAL REVIEW.—A deter-  
17 mination by the Secretary of Homeland Security as to  
18 whether the status of any alien should be adjusted under  
19 this Act is final and shall not be subject to review by any  
20 court.

21 (h) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—  
22 When an alien is granted the status of having been law-  
23 fully admitted for permanent residence pursuant to this  
24 Act, the Secretary of State shall not reduce the number

1 of immigrant visas authorized to be issued under any pro-  
2 vision of the Immigration and Nationality Act.

3 (i) APPLICATION OF IMMIGRATION AND NATION-  
4 ALITY ACT PROVISIONS.—Except as otherwise specifically  
5 provided in this section, the definitions contained in the  
6 Immigration and Nationality Act shall apply in the admin-  
7 istration of this Act. Nothing contained in this Act shall  
8 be held to repeal, amend, alter, modify, effect, or restrict  
9 the powers, duties, functions, or authority of the Secretary  
10 of Homeland Security in the administration and enforce-  
11 ment of such Act or any other law relating to immigration,  
12 nationality, or naturalization. The fact that an alien may  
13 be eligible to be granted the status of having been lawfully  
14 admitted for permanent residence under this section shall  
15 not preclude the alien from seeking such status under any  
16 other provision of law for which the alien may be eligible.

