

AMENDMENT TO H.R. 4760
OFFERED BY MR. HASTINGS OF FLORIDA

At the end of title I of division A, add the following:

1 **SEC. 1105. 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));

17 (C) is not deportable under paragraph
18 (1)(E), (1)(G), (2), (4), (5), or (6) of section
19 237(a) of such Act (8 U.S.C. 1227(a));

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

6 (E) has not been convicted of—

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

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

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

1 the Secretary of Homeland Security shall cancel the
2 order. If the Secretary of Homeland Security ren-
3 ders a final administrative decision to deny the ap-
4 plication, the order shall be effective and enforceable
5 to the same extent as if the application had not been
6 made.

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

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

12 (2) who is in temporary protected status under
13 section 244 of the Immigration and Nationality Act
14 (8 U.S.C. 1254a)—

15 (A) on January 13, 2011; and

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

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

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

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

4 (c) STAY OF REMOVAL.—

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

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

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

1 provide the alien with a “work authorized” endorse-
2 ment or other appropriate document signifying au-
3 thorization of employment, except that if such appli-
4 cation is pending for a period exceeding 180 days,
5 and has not been denied, the Secretary of Homeland
6 Security shall authorize 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 (8
11 U.S.C. 1255(c)), the status of an alien shall be ad-
12 justed by the Secretary of Homeland Security to
13 that of an alien lawfully admitted for permanent res-
14 idence, if—

15 (A) 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 (B) 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 (C) 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 (8 U.S.C.
11 1182(a)) shall not 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) CLASSIFICATION AS A NONIMMIGRANT.—For pur-
21 poses of adjustment of status under section 245 of the
22 Immigration and Nationality Act (8 U.S.C. 1255) and
23 change of nonimmigrant classification under section 248
24 of such Act (8 U.S.C. 1258), aliens described in sub-
25 sections (b) and (d) shall be considered as having been

1 inspected and admitted into the United States, and as
2 being in, and maintaining, lawful status as a non-
3 immigrant.

4 (f) AVAILABILITY OF ADMINISTRATIVE REVIEW.—

5 The Secretary of Homeland Security shall provide to ap-
6 plicants for adjustment of status under subsection (a) the
7 same right to, and procedures for, administrative review
8 as are provided to—

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

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

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

19 (h) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

20 When an alien is granted the status of having been law-
21 fully admitted for permanent residence pursuant to this
22 Act, the Secretary of State shall not reduce the number
23 of immigrant visas authorized to be issued under any pro-
24 vision of the Immigration and Nationality Act.

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

