

INA: ACT 201 - WORLDWIDE LEVEL OF IMMIGRATION [1/](#)

Sec. 201. [8 U.S.C. 1151]

(a) In general. - Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to-

(1) family-sponsored immigrants described in section [203\(a\)](#) (or who are admitted under section [211\(a\)](#) on the basis of a prior issuance of a visa to their accompanying parent under section [203\(a\)](#)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

(2) employment-based immigrants described in section [203\(b\)](#) (or who are admitted under section [211\(a\)](#) on the basis of a prior issuance of a visa to their accompanying parent under section [203\(b\)](#)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

(3) for fiscal years beginning with fiscal year 1995, diversity immigrants described in section [203\(c\)](#) (or who are admitted under section [211\(a\)](#) on the basis of a prior issuance of a visa to their accompanying parent under section [203\(c\)](#)) in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

(b) Aliens Not Subject to Direct Numerical Limitations. - Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

(1) (A) Special immigrants described in subparagraph (A) or (B) of section [101\(a\)\(27\)](#).

(B) Aliens who are admitted under section [207](#) or whose status is adjusted under section [209](#).

(C) Aliens whose status is adjusted to permanent residence under section [210](#), or [245A](#).

(D) Aliens whose removal is canceled under section [240A\(a\)](#).

(E) Aliens provided permanent resident status under section [249](#).

(2)(A) (i) Immediate relatives. - For purposes of this subsection, the term "immediate relatives" means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States [6/](#) and was not legally separated from the citizen at the time of the citizen's death, the alien (and each child of the alien) shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section [204\(a\)\(1\)\(A\)\(ii\)](#) within 2 years after such date and only until the date the spouse remarries. [3/](#) For purposes of this clause, an alien who has filed a petition under clause (iii) or (iv) of section [204\(a\)\(1\)\(A\)](#) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.

(ii) Aliens admitted under section [211\(a\)](#) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

(c) Worldwide Level of Family-Sponsored Immigrants. -

(1) (A) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is, subject to subparagraph (B), equal to -

(i) 480,000, minus

(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus

(iii) the number (if any) computed under paragraph (3).

(B) (i) For each of fiscal years 1992, 1993, and 1994, 465,000 shall be substituted for 480,000 in subparagraph (A)(i).

(ii) In no case shall the number computed under subparagraph (A) be less than 226,000.

(2) The number computed under this paragraph for a fiscal year is the sum of the number of aliens described in subparagraphs (A) and (B) of subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

(3) (A) The number computed under this paragraph for fiscal year 1992 is zero.

(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

(C) The number computed under this paragraph for a subsequent fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(b) (relating to employment-based immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

(4) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1999) is the number of aliens who were paroled into the United States under section [212\(d\)\(5\)](#) in the second preceding fiscal year-

(A) who did not depart from the United States (without advance parole) within 365 days; and

(B) who (i) did not acquire the status of aliens lawfully admitted to the United States for permanent residence in the two preceding fiscal years, or (ii) acquired such status in such years under a provision of law (other than section 201(b)) which exempts such adjustment from the numerical limitation on the worldwide level of immigration under this section.

(5) If any alien described in paragraph (4) (other than an alien described in paragraph (4)(B)(ii)) is

subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1). [2/](#)

(d) Worldwide level of employment-based immigrants

(1) The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to-

(A) 140,000 plus

(B) the number computed under paragraph (2).

(2) (A) The number computed under this paragraph for fiscal year 1992 is zero.

(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

(C) The number computed under this paragraph for a subsequent fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(a) (relating to family-sponsored immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

(e) Worldwide level of diversity immigrants.- The worldwide level of diversity immigrants is equal to 55,000 for each fiscal year.

#### [4/](#) (f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES-

(1) AGE ON PETITION FILING DATE- Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the Attorney General under section [204](#) to classify the alien as an immediate relative under subsection (b)(2)(A)(i).

(2) AGE ON PARENT'S NATURALIZATION DATE- In the case of a petition under section [204](#) initially filed for an alien child's classification as a family-sponsored immigrant under section [203\(a\)\(2\)\(A\)](#), based on the child's parent being lawfully admitted for permanent residence, if the petition is later converted, due to the naturalization of the parent, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i), the determination described in paragraph (1) shall be made using the age of the alien on the date of the parent's naturalization.

(3) AGE ON MARRIAGE TERMINATION DATE- In the case of a petition under section [204](#) initially filed for an alien's classification as a family-sponsored immigrant under section [203\(a\)\(3\)](#), based on the alien's being a married son or daughter of a citizen, if the petition is later converted, due to

the legal termination of the alien's marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a citizen under section [203\(a\)\(1\)](#), the determination described in paragraph (1) shall be made using the age of the alien on the date of the termination of the marriage.

[5/](#)(4) APPLICATION TO SELF-PETITIONS- Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.

## FOOTNOTES FOR SECTION 201

### INA ACT 201 FN 1

**FN1** This section was amended in its entirety by § 101(a) of IMMACT and further amended by § 302(a)(1) of MTINA.

### INA ACT 201 FN 2

**FN 2** Paragraphs (4) and (5) added by [§ 603 of IIRIRA](#).

### INA ACT 201 FN 3

**FN 3** Language inserted at the end by section [1507\(a\)\(3\)](#) of Public Law 106-386, dated October 28, 2000.

### INA ACT 201 FN 4

**FN 4** Paragraph (f) added by [section 2](#) of the Child Status Protection Act, Public Law [107-208](#), dated August 6, 2002. Effective Date: The amendments made by this Act shall take effect on the date of the enactment of this Act (August 6, 2002) and shall apply to any alien who is a derivative beneficiary or any other beneficiary of--

(1) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) approved before such date but only if a final determination has not been made on the beneficiary's application for an immigrant visa or adjustment of status to lawful permanent residence pursuant to such approved petition;

(2) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending on or after such date; or

(3) an application pending before the Department of Justice or the Department of State on or after such

## **INA ACT 201 FN 5**

**FN 5** Section [805\(b\)\(1\)](#) of Public Law 109-162 dated January 5, 2006, is amended by adding paragraph (4) to section 201(f) of the Immigration and Nationality Act.

## **INA ACT 201 FN 5**

**FN 6** Section [568\(c\)\(1\)](#) of Public Law 111-83, dated October 28, 2009, amended section 201(b)(2)(A)(i) by removing "for at least 2 years at the time of the citizen's death"

### **(2) APPLICABILITY-**

**(A) IN GENERAL-** The amendment made by paragraph (1) shall apply to all applications and petitions relating to immediate relative status under section [201\(b\)\(2\)\(A\)\(i\)](#) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) pending on or after the date of the enactment of this Act.

**(B) TRANSITION CASES-** Transition cases can be found at section [568\(2\)\(B\)](#) of Public Law 111-83.