

9 FAM 42.71

AUTHORITY TO ISSUE VISAS; VISA FEES

(CT:VISA-985; 07-29-2008)
(Office of Origin: CA/VO/L/R)

9 FAM 42.71 RELATED STATUTORY PROVISION

(CT:VISA-985; 07-29-2008)

See INA 101(a)(16) (8 U.S.C. 1101(a)(16)), INA 104 (8 U.S.C. 1104), INA 221(a) (8 U.S.C. 1201(a)), INA 224 (8 U.S.C. 1204), INA 243(d) (8 U.S.C. 1253(d)) Sec. 237 of Pub. L. 106-113. [Amended by sec. 307(a) of Pub. L. 104-208, Sept 30, 1996] Executive Order No. 10718 of June 27, 1957 (3 CFR 382), in part:

Section 1 There is hereby delegated to the Secretary of State the authority vested in the President by section 1745 of the Revised Statutes of the United States (22 U.S.C. 1201) to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several embassies, legations, and consulates, and to adapt the same, by such differences as may be necessary or proper, to each embassy, legation, or consulate.

INA 101(a)(16)

- (16) The term "immigrant visa" means an immigrant visa required by this chapter and properly issued by a consular officer at his office outside of the United States to an eligible immigrant under the provisions of this chapter.

INA 104

- a. The Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to (1) the powers, duties and functions of diplomatic and consular officers of the United States, except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties and functions of the Administrator; and (3) the determination of nationality of a person

not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

- b. The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this Act which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.
- c. Within the Department of State there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.
- d. The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively.
- e. There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this Act.

INA 221(a)

- a. (1) Under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations issued thereunder, a consular officer may issue
 - (A) to an immigrant who has made proper application therefore, an immigrant visa which shall consist of the application provided for in

section 222, visaed by such consular officer, and shall specify the foreign state, if any, to which the immigrant is charged, the immigrant's particular status under such foreign state, the preference, immediate relative, or special immigrant classification to which the alien is charged, the date on which the validity of the visa shall expire, and such additional information as may be required; and (B) 1a/ to a nonimmigrant who has made proper application therefore, a nonimmigrant visa, which shall specify the classification under section 101(a)(15) of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.

- (2) The Secretary of State shall provide to the Service an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at the United States ports of entry before the arrival of the alien at such a port of entry.

INA 224

Consular officer may, subject to the limitations provided in section 221, issue an immigrant visa to a special immigrant or immediate relative as such upon satisfactory proof, under regulations prescribed under this Act, that the applicant is entitled to special immigrant or immediate relative status.

INA 223(d)

- d. Upon the return of the alien to the United States the permit shall be presented to the immigration officer at the port of entry, and upon the expiration of its validity, the permit shall be surrendered to the Service.

9 FAM 42.71 RELATED REGULATORY PROVISION

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See 22 CFR 42.71