

9 FAM 40.32 TERRORIST ACTIVITIES

*(CT:VISA-1449; 07-15-2010)
(Office of Origin: CA/VO/L/R)*

9 FAM 40.32 RELATED STATUTORY PROVISIONS

(CT:VISA-1449; 07-15-2010)

See INA 212(a)(3)(B)(i) (8 U.S.C. 1182(a)(3)(B)) (as amended by Public Law 107-56), retroactive application of amendments made by Sec. 411 of USA PATRIOT ACT, and INA 219 (8 U.S.C. 1189).

INA 212(a)(3)(B)(i)

(3) Security and related grounds.-

(B) Terrorist activities-

(i) IN GENERAL.-Any alien who-

- (I) has engaged in a terrorist activity,
- (II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));
- (III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;
- (IV) is a representative (as defined in clause (v)) of--
 - (aa) a terrorist organization (as defined in clause (vi)); or
 - (bb) a political, social, or other group that endorses or espouses terrorist activity;
- (V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);
- (VI) is a member of a terrorist organization described in

clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

- (VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;
- (VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or
- (IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.

An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.

INA Section 212(a)(3)(B)(ii)

- (ii) EXCEPTION- Subclause (IX) of clause (i) does not apply to a spouse or child--
 - (I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section; or
 - (II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section.

INA Section 212(a)(3)(B)(iii)

- (iii) TERRORIST ACTIVITY DEFINED.-As used in this Act, the term "terrorist activity" means any activity which is unlawful under the laws of the place where it is committed (or which, if 4/ it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:
 - (I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

- (II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
- (III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.
- (IV) An assassination.
- (V) The use of any-
 - (aa) biological agent, chemical agent, or nuclear weapon or device, or
 - (bb) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.
- (VI) A threat, attempt, or conspiracy to do any of the foregoing.

INA Section 212(a)(3)(B)(iv)

- (iv) ENGAGE IN TERRORIST ACTIVITY DEFINED- As used in this chapter, the term "engage in terrorist activity" means, in an individual capacity or as a member of an organization-
 - (I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
 - (II) to prepare or plan a terrorist activity;
 - (III) to gather information on potential targets for terrorist activity;
 - (IV) to solicit funds or other things of value for--
 - (aa) a terrorist activity;
 - (bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or
 - (cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist

organization;

- (V) to solicit any individual--
 - (aa) to engage in conduct otherwise described in this subsection;
 - (bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or
 - (cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or
- (VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training--
 - (aa) for the commission of a terrorist activity;
 - (bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;
 - (cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or
 - (dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

INA Section 212(a)(3)(B)(v)

- (v) REPRESENTATIVE DEFINED.-As used in this paragraph, the term "representative" includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.

INA Section 212(a)(3)(B)(vi)

- (vi) **TERRORIST ORGANIZATION DEFINED-** As used in this section, the term 'terrorist organization' means an organization—
- (I) designated under section 219;
 - (II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or
 - (III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).

INA 212(a)(3)(F)

(F) Association with Terrorist Organizations

Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.

[Amended by USA Patriot Act of 2001 (Act of October 26, 2001, Public Law 107-56, 115 Stat. 272). Further amended by Sec. 103(a), Title I, REAL ID Act 2005 [such Act was Div. B Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005], Act of May 11, 2005, Public Law No. 109-13, 119 Stat. 231.]

9 FAM 40.32 RELATED REGULATORY PROVISIONS

(CT:VISA-1211; 05-04-2009)

22 CFR 40.32 Terrorist activities. [Reserved]