

9 FAM 42.33 DIVERSITY IMMIGRANTS

(CT:VISA-1481; 08-27-2010)
(Office of Origin: CA/VO/L/R)

9 FAM 42.33 RELATED STATUTORY PROVISIONS

(CT:VISA-1481; 08-27-2010)

See INA 203(c) (8 U.S.C. 1153(c)), INA 204(a)(1)(I)(ii) (8 U.S.C. 1154(a)(1)(I)(ii)), *Section* 1 of Public Law 105-360, *Section* 636 of Public Law 104-208, Public Law 106-570, Public Law 107-56 and *Section* 422(c) of Public Law 107-56.

INA 203(c)

c. Diversity immigrants

(1) In general

Except as provided in paragraph (2), aliens subject to the worldwide level specified in section 1151 (e) of this title for diversity immigrants shall be allotted visas each fiscal year as follows:

(A) Determination of preference immigration

The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who

- (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and
- (ii) were subject to the numerical limitations of section 1151 (a) of this title (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 1151 (b)(2) of this title.

(B) Identification of high-admission and low-admission regions and high-admission and low-admission states The Attorney General—

- (i) shall identify—

- (I) each region (each in this paragraph referred to as a "high-admission region") for which the total of the numbers determined under subparagraph (A) for states in the region is greater than 1/6 of the total of all such numbers, and
 - (II) each other region (each in this paragraph referred to as a "low-admission region"); and
- (ii) shall identify—
 - (I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a "high-admission state"), and
 - (II) each other foreign state (each such state in this paragraph referred to as a "low-admission state").
- (C) Determination of percentage of worldwide immigration attributable to high-admission regions The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.
- (D) Determination of regional populations excluding high-admission states and ratios of populations of regions within low-admission regions and high-admission regions The Attorney General shall determine—
 - (i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;
 - (ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and
 - (iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.
- (E) Distribution of visas
 - (i) No visas for natives of high-admission states The percentage of visas made available under this paragraph to natives of a high-admission state is 0.
 - (ii) For low-admission states in low-admission regions Subject to clauses (iv) and (v), the percentage of visas made

available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

- (I) the percentage determined under subparagraph (C), and
 - (II) the population ratio for that region determined under subparagraph (D)(ii).
- (iii) For low-admission states in high-admission regions Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—
- (I) 100 percent minus the percentage determined under subparagraph (C), and
 - (II) the population ratio for that region determined under subparagraph (D)(iii).
- (iv) Redistribution of unused visa numbers If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).
- (v) Limitation on visas for natives of a single foreign state The percentage of visas made available under this paragraph to natives of any single foreign state for any fiscal year shall not exceed 7 percent.
- (F) "Region" defined
- Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and the areas described in each of the following clauses shall be considered to be a separate region:
- (i) Africa.
 - (ii) Asia.

- (iii) Europe.
 - (iv) North America (other than Mexico).
 - (v) Oceania.
 - (vi) South America, Mexico, Central America, and the Caribbean.
- (2) Requirement of education or work experience
An alien is not eligible for a visa under this subsection unless the alien—
- (A) has at least a high school education or its equivalent, or
 - (B) has, within 5 years of the date of application for a visa under this subsection, at least 2 years of work experience in an occupation which requires at least 2 years of training or experience.
- (3) Maintenance of information
The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under this subsection.

INA 204(a)(1)(I)

(I)(i) Any alien desiring to be provided an immigrant visa section 203(c) may file a petition at the place and time determined by the Secretary of State by regulation. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

(ii)(I) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 203(c) for the fiscal year beginning after the end of the period.

(II) Aliens who qualify, through random selection, for a visa under section 203(c) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

9 FAM 42.33 RELATED REGULATORY PROVISIONS

(CT:VISA-962; 05-23-2008)

See 22 CFR 42.33