

Interpreter Releases
Report and analysis of immigration and nationality law

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November 6, 2006

*2371 3. REAL ID Act Credibility Determination Provisions Inapplicable to
Applications Filed Before May 11, 2005, BIA Rules

In *Matter of S-B-*, 24 I. & N. Dec. 42 (B.I.A. Nov. 2, 2006), the Board of Immigration Appeals (BIA) has ruled that: (1) the provisions regarding credibility determinations enacted in § 101(a)(3) of the REAL ID Act of 2005 [FN43] (effective May 11, 2005) (codified at INA § 208(b)(1)(B)(iii) [8 USCA § 1158(b)(1)(B)(iii)]) only apply to applications for asylum, withholding, and other relief from removal that were initially filed on or after May 11, 2005, the effective date of the REAL ID Act, whether the applications were filed with an asylum officer or an immigration judge (IJ); and (2) where applications for relief were filed with an asylum officer prior to May 11, 2005, but are renewed in removal proceedings before an IJ subsequent to that date, the provisions of INA § 208(b)(1)(B)(iii) are not applicable to credibility determinations made in adjudicating his or her applications. A complete discussion of this decision will appear in a future Release.

[FN43]. The REAL ID Act, Division B of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, Pub. L. No. 109-13, 119 Stat. 231, was signed into law on May 11, 2005. See B2 Interpreter Releases 813 (May 16, 2005).

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