

Interpreter Releases Report and analysis of immigration and nationality law
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***2511 5. Congress Approves SSI Extension Bill**

Both houses of Congress have now approved H.R. 2608, the SSI Extension for Elderly and Disabled Refugees Act. The bill, among other things, provides social security income (SSI) for refugees, asylees, and certain other humanitarian immigrants through Fiscal Year (FY) 2011. The House passed its version in July 2007. [FN8][FN8] The Senate, on August 1, 2008, passed an amended version. [FN9][FN9] The House has now agreed to the Senate's version, [FN10][FN10] and the bill now awaits President George W. Bush's signature.

The SSI provisions are found in § 2 of the bill. It amends § 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act, 8 USCA § 1612(a)(2). Under § 402, aliens are generally prohibited from being eligible for SSI; however, aliens may receive benefits provided they meet certain requirements. Under current § 402(a)(2), refugees and asylees may receive SSI benefits for up to seven years from the time when they (1) are admitted to the U.S. as refugees under INA § 207 [8 USCA § 1157]; (2) are granted asylum under INA § 208 [8 USCA § 1158]; (3) are granted withholding of deportation under INA § 243(h) [8 USCA § 1253(h)] or 241(b)(3) [8 USCA § 1251(b)(3)]; (4) are granted status as Cuban and Haitian entrants; or (5) are admitted to the U.S. as Amerasian immigrants pursuant to § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988. H.R. 2608 extends that period of benefits up to nine years during FYs 2009 through 2011. It also adds to the class of eligible aliens those who are the victims of trafficking as defined in Division A, § 107(b)(1)(C) of the Victims of Trafficking and Violence Protection Act of 2000 [FN11][FN11] or those granted status under INA § 101(a)(15)(T)(ii) [8 USCA § 1101(a)(15)(T)(ii)].

Subclause III describes more specifically the aliens eligible for the additional two years of coverage. A qualified alien under the bill is an alien or victim who:

(aa) has been a lawful permanent resident for less than 6 years and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

(bb) has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

(cc) has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422), for purposes of the specified Federal program described in paragraph (3)(A);

(dd) has had his or her deportation withheld by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of sec-

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tion 307 of division C of Public Law 104-208), or whose removal is withheld under section 241(b)(3) of such Act;

(ee) has not attained age 18; or

(ff) has attained age 70.

***2512** The bill also reinstates coverage for an additional two years for refugees and asylees who had lost SSI benefits because the seven years had lapsed provided they still meet the eligibility criteria. There will not be retroactive payment of benefits however; all payments will cover from the date of enactment of the bill forward for a maximum of two years.

Aliens seeking benefits under the bill must provide the Commissioner of Social Security with a declaration as described in the bill in subclause IV. The declarations must state that the alien or victim has made a good-faith effort to pursue U.S. citizenship and must make the declaration under penalty of perjury. The bill requires the Commissioner of Social Security to develop criteria necessary for a satisfactory declaration and consult with the Secretary of Homeland Security in regards to developing the criteria. Children under 18 years of age will not be required to make the declaration.

Further, the bill makes the general ineligibility for SSI benefits inapplicable to those refugees and asylees listed in § 401(a)(2)(A) clauses (i) through (v) who have filed for naturalization and for whom the submission is verified by the Commissioner of Social Security either by a receipt number received from the alien or a confirmation from the Secretary of Homeland Security. This may mean, therefore, that asylees and refugees who have applied for naturalization may in fact be able to receive SSI for more than nine years. For example, if an asylee reaches his or her ninth year of coverage in 2009 but has applied for naturalization, he or she could continue to receive SSI coverage pending the adjudication of the application under this new provision, thus extending coverage past the ninth year.

[FN8]. See 84 Interpreter Releases 1605 (July 16, 2007) for a discussion of the House's version and related items.

[FN9]. See 155 Cong. Rec. S8003 (daily ed. Aug. 1, 2008), discussed in 85 Interpreter Releases 2182 (Aug 11, 2008).

[FN10]. See 155 Cong. Rec. H8298 to H8304 (daily ed. Sept. 17, 2008).

[FN11]. Pub. L. No. 106-386, 114 Stat 1464 (Oct. 28, 2000).

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