

SBAA QUARTERLY NEWSLETTER

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EXECUTIVE DIRECTOR'S LETTER

First, I would like to welcome the 2007-2008 SBAA Board of Directors, who were all elected at this year's Annual Meeting in May. Thank you to everyone who took the time to attend and participate in the meeting.

In the past month, we have selected members to participate on the various committees, including: Fundraising, Scholarship, Events, By-Laws, Website, Student Action, and CLE. We have made some great progress within several of these committees, especially on both the website and student action committees.

One project that the website committee is working on is how to serve you better using this medium, which is why we would like to ask you to take a moment to complete the survey on our website (www.serbbbar.org). Also, if you have any interest in volunteering your time and expertise on any of these committees, please do not hesitate to contact me.

I am also very excited to share with you that our case referrals for the year have increased dramatically, and members in good-standing are having the chance to take advantage of this program. This is a great time to update your membership!

Another interesting development over the past few months, is the amount of outreach that our current law school graduates are having within our SBAA community. Several graduates have contacted our organization for assistance for finding internships and job opportunities, and I am more than pleased to share with you that your colleagues across the United States have been happy to help and mentor these young lawyers through the legal arena. If you know of anyone that may need some assistance, please feel free to forward their contact information to me.

Finally, I would like to encourage you to share the **SBAA scholarship opportunity** with any qualified candidates that you may know in your community. Also, if you would like your law school alma mater added to our list of over 80 schools that are currently in contact with us, please forward me that information.

In closing, I would like to thank the entire SBAA Board of Directors for all of their time and effort that they give to the organization. **Please know that our next event will be our Slava at the St. Sava Serbian Cultural Center on Sunday, September 16 at 5 p.m.** We are looking forward to seeing you and your families there.

Kelly A. Pavich, Executive Director

COMPREHENSIVE IMMIGRATION REFORM BEING DEBATED IN SENATE

By Paul Djurisc*

DO NOT BE FOOLED, THIS IS NOT AMNESTY! The Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, is full of complicated issues and it is important to understand what the bill does and does not do.

The current form of the bill would create a new Z nonimmigrant visa category for people currently living in the U.S. in undocumented status who have been continuously physically present in the U.S. since January 1, 2007, are admissible under most immigration laws, and are working or have met certain work requirements. Spouses, children (under 18 on the date of application) and parents also can obtain this visa if they also were continuously physically present since January 1.

THE PROCESS:

1. Application Period: Starting six months after date of enactment, the USCIS shall issue an interim final rule and begin accepting Z visa applications. The application period will last one year – with the Secretary of DHS having the discretion to extend the application period another 12 months.
2. Requirements: The Z visa applicant must provide evidence of continuous physical presence, employment, or education to meet Z visa statutory requirements, complete a detailed application form, submit fingerprints for a background check, be interviewed by the USCIS, and register for selective service if a male is between the ages of 18 and 25.
3. USCIS checks: Once the agency accepts the complete application, the USCIS has one business

day to conduct initial background checks before issuing people temporary work authorization, advance parole, temporary protection from deportation, and temporary suspension of classification as an unauthorized alien.

4. Visa Granted: After all background checks are complete, the Z visa is granted and applicants will receive a new document proving their status. The visa provides work authorization, ability to travel, and the ability to change jobs.
5. Grounds of Inadmissibility Waived: Certain grounds of inadmissibility (such as the unlawful presence bars, misrepresentation, and false claims to citizenship) would not apply and would thus not stand in the way of people receiving a Z visa. .
6. Period of Z Visa and Extension: The Z Visa is good for an initial four years and can be extended every four years indefinitely if certain conditions are met including: timely filing of all change of address notifications; remaining eligible for Z visa – including fulfilling the work and good moral character requirements; paying relevant fees; for the first renewal demonstrating an effort to learn English and U.S. civics; for the second renewal, demonstrating proficiency in English and knowledge of U.S. civics by passing an exam. Delays in filing extensions may be waived only at the discretion of the Secretary of DHS.
7. Earned Adjustment: To obtain legal permanent residency, a Z holder must file an application at a

U.S. consulate in his/her country of origin. All Z visa holders would be eligible to apply for permanent residency during a 5-year period starting on the date that the family-based immigrant backlog (of petitions submitted before May 2005, although a recent amendment is considering changing this date to January 1, 2007) has been eliminated. Green card applications will be processed though application of a merit-based point system over the course of 5 years, and cannot begin until existing backlogs in family-based and employment-based visas are current.

8. Denials and termination of status: If an applicant's Z visa is denied, the applicant can be prosecuted for having used false documents and can be placed in removal proceedings before an immigration judge. Individuals who have "aggravated felony" convictions are subject to deportation without a right to a hearing before an immigration judge. Z visa status will end if the visa holder fails to timely file an extension, becomes ineligible (including by failing to maintain employment), is found removable for criminal conduct, is found to be newly inadmissible, or uses the Z visa documentation fraudulently. Spouses and children of Z visa holders lose their visas if the principle becomes ineligible.

ISSUES:

Fines and Fees: The Z visa applicant must pay an initial processing fee to fully cover costs that is capped at \$1,500 per beneficiary. The principal applicant also pays a \$1,000 penalty, a \$500 State Impact Assistance Fee, and a \$500 penalty for each derivative. (The total for a family of 4 could be as high as \$9,000). To extend the Z visa (every four years), there is a cap of \$1,500 per beneficiary. (Thus, the total for a family of 4 to extend their Z visas could be as high as \$6,000 every 4 years). In addition, the principle applicant must pay a \$4,000 penalty in addition to application fees, and must have paid taxes as a Z visa holder or entered into an agreement with the IRS to make payments.

Time Periods: Z visa applicants would be unable to adjust to permanent resident status until existing backlogs in family-based and employment-based visas are cleared out and the triggers (noted below) have been met. These mandates would mean that these legalized immigrants would have to wait at least 13 years, and possibly up to 18 years, before they could apply for citizenship. Also, it appears that Z visa holders would be unable to petition for their spouses and minor children who live abroad until they are legal permanent residents (LPRs) – a process that could take between 9 and 13 years. There also are a limited number of visas (87,000 annually) available each year. Thus, the waiting lists for families, instead of being resolved, will become even longer.

People who are Ineligible: Those ineligible for the Z visa include people subject to final orders of removal, those who had been previously deported and reentered the U.S. unlawfully, and individuals convicted of one felony, one "aggravated felony," three or more misdemeanors, one crime of violence, or one crime of reckless driving or DUI if the crime results in an injury. (There is an extremely difficult to obtain extreme hardship waiver available.) In certain states, disorderly conduct, loitering violations or traffic infractions that are so minor they are not considered crimes under state law may be considered "misdemeanors" that count toward the three misdemeanor bar.

Mandated Return – the So-Called "Touchback:" In order to obtain legal permanent residency, the Z visa holder must file an application to adjust status in person at a U.S. consulate in his/her country of origin. The applicant's family may remain in the U.S. and maintain their Z status. This process could cause problems because: the decision of the consular officer to deny permanent residency cannot be reviewed; the capacity of consulates to deal with this program is questionable; the government has had problems with the accuracy of their databases – thus causing confusion in the program; and it is unclear how long people will have to remain outside of the country, away from their jobs and families during this process.

Continuous Employment Requirement: The bill requires that Z visa holders between 16 and 65 must remain continuously employed full time in the U.S. (or would become deportable) as a condition of their nonimmigrant status except if: the person is pursuing a full course of study; employed while also engaged in study; has a physical or mental disability; or the ability to work has been temporarily interrupted by events such as war, civil disorder, hurricanes or earthquakes. This requirement would make it less likely that workers will come forward with any complaints about their employers for fear of losing employment and endangering their and their family's eligibility for permanent residency.

Again, this is not an amnesty, but for the nearly 12 million in this country without status there is finally hope for some resolution. It is expected that a final bill may come out of Congress before the end of summer, 2007, and let us all hope it is a bill that helps more than harms those that have been waiting many years for changes.

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