

SECTION 237(a)(1)(H) AND CANCELLATION OF REMOVAL FOR
LAWFUL PERMANENT RESIDENTS

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I.

INTRODUCTION

Section 237(a)(1)(H) of the Immigration and Nationality Act (INA or the Act) provides relief from deportation for certain permanent residents who are related to United States citizens or lawful permanent residents. It is most commonly used when, after a person becomes a permanent resident, a defect appears in the process by which they got permanent residence, typically a misrepresentation of some sort. We are seeing more and more Section 237(a)(1)(H) applications, largely because USCIS is examining much more closely a person's permanent residence when that person attempts to naturalize.

The requirements for being able to submit a § 237(a)(1)(H) application are few and simple:

1. The applicant must be the spouse, parent, son, or daughter of a U.S. citizen or a lawful permanent resident; and
2. have been admitted or (adjusted) to permanent resident status, having been admissible, except for the ground sought to be waived, except for lack of a labor certification (when required) or lack of an immigrant visa or equivalent document at time of entry/adjustment.

II.

THE STATUTE

Section 237(a)(1)(H) of the Act reads in its entirety as follows:

(H) Waiver authorized for certain misrepresentations. The provisions of this paragraph relating to the removal of aliens within the United States on the ground that they were inadmissible at the time of admission as aliens described in section 212(a)(6)(C)(i), whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (4)(D)) [Nazis] who

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(i) (I) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(II) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such admission except for those grounds of inadmissibility specified under paragraphs (5) (A) and (7) (A) of section 212(a) which were a direct result of that fraud or misrepresentation.

(ii) is a VAWA self-petitioner.

A waiver of deportation for fraud or misrepresentation granted under this subparagraph shall also operate to waive removal based on the grounds of inadmissibility directly resulting from such fraud or representation.

III.

THE APPLICATION

Here is what a Section 237(a) (1) (H) application looks like (there is no form or filing fee):

NON-DETAINED

UNITED STATES DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

IMMIGRATION COURT

HOUSTON – GREENSPPOINT PARK

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