

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1445. Application for naturalization; declaration of intention

(a) Evidence and form

An applicant for naturalization shall make and file with the Attorney General a sworn application in writing, signed by the applicant in the applicant's own handwriting if physically able to write, which application shall be on a form prescribed by the Attorney General and shall include averments of all facts which in the opinion of the Attorney General may be material to the applicant's naturalization, and required to be proved under this subchapter. In the case of an applicant subject to a requirement of continuous residence under section 1427(a) or 1430(a) of this title, the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.

(b) Who may file

No person shall file a valid application for naturalization unless he shall have attained the age of eighteen years. An application for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

(c) Hearings

Hearings under section 1447(a) of this title on applications for naturalization shall be held at regular intervals specified by the Attorney General.

(d) Filing of application

Except as provided in subsection (e) of this section, an application for naturalization shall be filed in the office of the Attorney General.

(e) Substitute filing place and administering oath other than before Attorney General

A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.

(f) Declaration of intention

An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General. Nothing in this subsection shall be construed as

requiring any such alien to make and file a declaration of intention as a condition precedent to filing an application for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this chapter or any other Act.

(June 27, 1952, ch. 477, title III, ch. 2, §334, 66 Stat. 254; Pub. L. 97-116, §15(b), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 101-649, title IV, §§401(b), 407(c)(15), (d)(12), Nov. 29, 1990, 104 Stat. 5038, 5041, 5042; Pub. L. 102-232, title III, §305(d), (e), (m)(7), Dec. 12, 1991, 105 Stat. 1750.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original a reference to this Act, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-232, §305(m)(7), struck out “, in duplicate,” after “file with the Attorney General”.

Pub. L. 102-232, §305(e), made technical correction to directory language of Pub. L. 101-649, §407(d)(12)(B). See 1990 Amendment note below.

Subsecs. (f), (g). Pub. L. 102-232, §305(d), redesignated subsec. (g) as (f).

1990—Pub. L. 101-649, §407(d)(12)(A), substituted “Application for naturalization; declaration of intention” for “Petition for naturalization” in section catchline.

Subsec. (a). Pub. L. 101-649, §407(c)(15), (d)(12)(B), as amended by Pub. L. 102-232, §305(e), substituted “with the Attorney General” for “in the office of the clerk of a naturalization court”, “under this subchapter” for “upon the hearing of such petition”, and “application” for “petition” wherever appearing.

Pub. L. 101-649, §401(b), inserted at end “In the case of an applicant subject to a requirement of continuous residence under section 1427(a) or 1430(a) of this title, the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.”

Subsec. (b). Pub. L. 101-649, §407(c)(15), (d)(12)(C), substituted “application” for “petition” in first sentence, and struck out “(1)” before “he shall have attained”, “and (2) he shall have first filed an application therefor at an office of the Service in the form and manner prescribed by the Attorney General” after “eighteen years”, and “petition for” after “An application for”.

Subsecs. (c) to (e). Pub. L. 101-649, §407(d)(12)(F), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which related to time to file, substitute filing place, and investigation into reasons for substitute filing place, respectively.

Subsecs. (f), (g). Pub. L. 101-649, §407(c)(15), (d)(12)(D), (E), redesignated subsec. (f) as (g), substituted “An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.” for “Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed

with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe," and substituted "an application" for "a petition" in last sentence.

1981—Subsec. (a). Pub. L. 97-116 struck out "and duly verified by two witnesses," after "able to write,".

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 305(d), (e) of Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

Section 305(m) of Pub. L. 102-232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101-649.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

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For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1446. Investigation of applicants; examination of applications

(a) Waiver

Before a person may be naturalized, an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person applying for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his application for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) Conduct of examinations; authority of designees; record

The Attorney General shall designate employees of the Service to conduct examinations upon applications for naturalization. For such purposes any such employee so designated is authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any applicant for naturalization, to administer oaths, including the oath of the applicant for naturalization, and to require by subpoena the attendance and testimony of witnesses, including applicant, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any district court of the United States; and any such court may, in the event of neglect or refusal to respond to a subpoena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce rel-

evant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the examination authorized by this subsection shall be admissible as evidence in any hearing conducted by an immigration officer under section 1447(a) of this title. Any such employee shall, at the examination, inform the applicant of the remedies available to the applicant under section 1447 of this title.

(c) Transmittal of record of examination

The record of the examination upon any application for naturalization may, in the discretion of the Attorney General be transmitted to the Attorney General and the determination with respect thereto of the employee designated to conduct such examination shall when made also be transmitted to the Attorney General.

(d) Determination to grant or deny application

The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

(e) Withdrawal of application

After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

(f) Transfer of application

An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.

(June 27, 1952, ch. 477, title III, ch. 2, §335, 66 Stat. 255; Pub. L. 97-116, §15(c), Dec. 29, 1981, 95 Stat. 1619; Pub. L. 100-525, §9(aa), (bb), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, §§401(c), 407(c)(16), (d)(13), Nov. 29, 1990, 104 Stat. 5038, 5041, 5043; Pub. L. 102-232, title III, §305(f), Dec. 12, 1991, 105 Stat. 1750.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-232 substituted "district court" for "District Court".

1990—Pub. L. 101-649, §407(d)(13)(A), substituted "Investigation of applicants; examination of applications" for "Investigation of petitioners" in section catchline.

Subsec. (a). Pub. L. 101-649, §407(c)(16), (d)(13)(B), substituted "Before a person may be naturalized" for "At any time prior to the holding of the final hearing on a