

Legal Times

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The Attorney's Corner

Let us talk law today.

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Removal of Conditional Residency

Under the Immigration and Nationality Act, certain spouses of U.S. citizens and lawful permanent residents are eligible for lawful permanent residence. Where the couple has not been married for at least two years at the time of the adjustment of status interview or the date of admission to the United States, the noncitizen may be granted conditional resident status for a two-year period. The permanent resident card expires on the second anniversary of the date when it was granted.

Conditional residence will be terminated before the second anniversary of the date when it was granted if:

1. The marriage was judicially annulled or terminated other than through the death of a spouse;
2. The marriage was entered into for the purpose of procuring the noncitizen's entry into the

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Recent Immigration News

Recent changes which may affect you.

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USCIS Announces Revised Forms I-600 and I-600A

U.S. Citizenship and Immigration Services (USCIS) announced at the beginning of this month, that it has published new versions of the *Petition to Classify Orphan as an Immediate Relative*, Form I-600 and the *Application for Advance Processing of Orphan Petition*, Form I-600A. The new date on the bottom of both forms is "12/30/09 N." Due to the changes on the forms, previous versions will no longer be accepted after a 60 day transition period.

Beginning April 1, 2010, until June 2, 2010, USCIS will provide a transition period during which previous versions of the forms will continue to be accepted. After June 2, 2010, only the 12/30/09 version of these forms may be used. If someone attempts to file any previous version of either form after June 2, 2010, USCIS will reject the filing. The rejected form, supporting evidence, and any filing fee will be returned with a copy of the 12/30/09 version so that the person can file using the correct form.

USCIS has modified the forms to be more user-friendly and to permit prospective adoptive parents to request accommodations for disabilities or impairments during interviews. ❖

U.S. Citizenship and Immigration Services, Last Updated 04/01/2010.

United States for a fee or other consideration was given for filing the petition; or

3. The noncitizen and his spouse fail to petition the USCIS for file a Joint Petition to Remove Conditional Residence, within the 90-day period prior to the second anniversary of the conditional residence grant or the noncitizen and his spouse fail to jointly appear at the USCIS interview without good cause unless a waiver was filed seeking to remove the joint filing requirement.

In order to convert conditional residence to lawful permanent residence, the petitioner and beneficiary must file a joint petition within 90 days of the second anniversary of the grant of conditional residence along with supporting documentation to show that the marriage was bona fide when contracted. If the parties are no longer married or if the petitioner is unwilling or unable to sign the joint petition, the conditional resident may file a waiver based on any of the following circumstances:

1. The petitioning spouse is deceased;
2. The marriage was entered into in good faith but was terminated through divorce or annulment;
3. The marriage was entered into in good faith but, during the marriage, the conditional resident spouse or child(ren) was subject to battering or extreme mental cruelty; or
4. The termination of the status and removal would result in extreme hardship.

The filing of the waiver automatically extends the noncitizen's status until the petition is finally adjudicated.

A conditional resident who is not able to file a joint petition because divorce or annulment proceedings have commenced but have not been completed may not apply for a waiver under the "good faith" ground until the marriage is terminated

Battery or extreme mental cruelty: A noncitizen can seek to remove his conditional residency through a waiver if he can establish that he married the petitioning spouse in good faith but that his spouse either physically abused him or his child or subjected them to extreme cruelty. The noncitizen need not have terminated the marriage in order to qualify for the waiver and may even still be living with the abusive spouse.

Extreme hardship: A waiver may be filed for extreme hardship; however, the alleged hardship must be based on factors which arose subsequent to the noncitizen's entry as a conditional resident. There is no requirement under this waiver to establish that the marriage was entered into in good faith.

The preparation of the Joint Petition to Remove Conditional Residence is extremely technical. You may want to contact an immigration attorney to discuss this further. ❖

Important Links and Resources for your Legal Research

Bankruptcy Basics:

<http://www.ganb.uscourts.gov/geninfo/consumer/basic.html#CHAPTER7>

Governor's Office of Consumer Affairs: Debt Reaffirmation

http://www.georgia.gov/00/article/0,2086,5426814_39039081_38497398,00.html

Visa Bulletin for May 2010:

http://www.travel.state.gov/visa/frvi/bulletin/bulletin_4805.html

USCIS page for processing time reports and individual case status:

<https://egov.uscis.gov/cris/jsps/index.jsp>

USCIS - list of physicians for adjustment:

<http://www.uscis.gov/civilsurgeons>

Office of Child Support Services:

<https://services.georgia.gov/dhr/cspp/do/public/SupportCalc>

REAFFIRMING A DEBT IN CHAPTER 7 BANKRUPTCY

Reaffirming a debt means that you sign and file with the bankruptcy court a legally enforceable document, which states that you promise to repay all or a portion of the debt, which may otherwise have been discharged in a bankruptcy case. Reaffirmation agreements must generally be filed with the court within 60 days after the first meeting of the creditors, which is also known as the 341 Meeting. **Reaffirmation agreements are strictly voluntary; they are not required by the Bankruptcy Code or other state or federal law.**

You can voluntarily repay any debt instead of signing a reaffirmation, but there may be valid reasons for wanting to reaffirm a particular debt and a discussion with a bankruptcy lawyer about any possible reasons you may have is a good idea before signing a reaffirmation agreement. It is important to note that a Reaffirmation Agreement must not impose an undue burden on you or your dependents, and must be in your best interest. If you decide to sign a reaffirmation agreement, you may be able to cancel it depending on when you signed and what events have transpired since the signing.

If you reaffirm a debt and fail to make the payments required in the reaffirmation agreement, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt. This is often why it is better not to reaffirm a debt that will be discharged in your bankruptcy. ❖

The Greaves Law Group is the Source for All Your Legal Needs

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