
Frequently Asked Questions: Conditional Residence Status

I was granted conditional residence status, what does this mean?

A person is granted conditional residence if he or she gains lawful permanent resident (LPR) status based on a marriage to a U.S. citizen and the marriage took place less than two years before residency is granted. Conditional residence is granted for a two-year period. During the two years, the conditional resident has the same rights and responsibilities as other permanent residents, including the right to live and work in the U.S. and to file petitions on behalf of unmarried children. However, at the end of the two years, additional steps must be taken to remove the conditional nature of the residence status.

What steps must I take to remove the conditions on my residence status?

Conditional residents are issued permanent resident cards similar to the “green card” issued to other permanent residents. However, the card will expire after two years. It is important that the conditional resident be aware of the expiration date of his or her status. To maintain permanent residence status beyond the two years, the conditional resident is required to file a joint petition with his or her spouse to remove the condition. The joint petition, Form I-751, Petition to Remove the Conditions on Residence, must be filed within the 90-day period before the card expires.

What if I fail to file the Form I-751 within the required time period?

Failure to file the petition will result in loss of your lawful status and you may be placed in removal proceedings. The U.S. Citizenship and Immigration Services (USCIS) may accept an I-751 filed after the two-year period only if you can establish there was a good reason for the failure to file within the required time.

What if my spouse is unable or unwilling to file the I-751 joint petition?

If you cannot file because your marriage has ended in divorce, annulment or death of your petitioning spouse, or your spouse refuses to join in the filing of the petition, you may apply for a waiver of the requirement to file the joint petition. The waiver request is also filed on Form I-751. To qualify for the waiver, you must establish that one of the following circumstances exists:

- Your marriage was entered into in good faith but your spouse has died
- Your marriage was entered into in good faith but it ended by divorce or annulment
- Your marriage was entered into in good faith but your spouse subjected you to battery or extreme cruelty
- Termination of your status would cause you extreme hardship

Must I be physically present in the United States to file the I-751 petition or waiver?

No, the petition or waiver may be filed regardless of whether the conditional resident is physically present in the United States. However, the conditional resident must return to the United States if required to appear for an interview with USCIS.

Resource updated 6/22/15.

May I travel outside of the United States while my I-751 is pending and my alien registration card has expired?

Yes, while USCIS is processing the joint petition or waiver, you can travel abroad even if the conditional resident card has expired. The USCIS will issue you a receipt once it receives the I-751. The receipt serves as proof of your continued lawful status in the United States. A conditional resident can use this filing receipt and the expired conditional resident card to reenter the United States following a trip abroad. It is important to be aware of the expiration date on the receipt and to reenter the United States prior to that date.

Will I be interviewed on the joint petition or waiver?

The USCIS can waive the interview on the joint petition or waiver application. If the agency is satisfied that the marriage was entered into in good faith and not for the purpose of evading the immigration laws, it will approve the petition without an interview. If a waiver application is filed, it is more likely that an interview will be scheduled. If the USCIS decides to require an interview, it will forward the file to the district office where the conditional resident resides.

What will happen if I fail to appear for my interview or my I-751 is denied?

If you fail to appear for an interview in connection with a joint petition or waiver, the petition or waiver will be denied, conditional residence status will terminate, and USCIS will begin removal proceedings. The agency must provide you with written notice of the specific reasons for termination. If you are placed in removal proceedings, you can ask the immigration judge to review the denial.

Are children of conditional residents subject to the same rules?

It depends. If your child obtained status based on your marriage to a U.S. citizen and the marriage occurred less than two years before admission or adjustment to permanent residence, your child will also be a conditional resident. If your children acquire their legal status at the same time or within 90 days of you, they can be included on your I-751 petition or waiver. Children who enter the United States as immigrants or adjust status more than 90 days after the conditional resident parent must file their own Form I-751.

Remember that immigration law is complicated and applies differently to people in different situations. When you have an immigration law question, check with an immigration lawyer or BIA accredited representative.

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