

106TH CONGRESS
1ST SESSION

H. R. 2722

To amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. SMITH of New Jersey (for himself, Mr. GUTIERREZ, Mr. DIAZ-BALART, Mrs. MEEK of Florida, Ms. ROS-LEHTINEN, Mr. DELAHUNT, Mr. BALLENGER, Mr. ORTIZ, Mr. GILMAN, Ms. VELÁZQUEZ, Mr. SOUDER, Ms. ROYBAL-ALLARD, Mr. DAVIS of Virginia, Mr. HINOJOSA, Mr. BECERRA, Mr. MENENDEZ, Mr. REYES, Mr. SERRANO, Mr. PASTOR, Mr. HASTINGS of Florida, Mr. RANGEL, Mr. GONZALEZ, Mr. MARTINEZ, Mr. RUSH, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Ms. WATERS, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Central American and
3 Haitian Adjustment Act of 1999”.

4 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS**
5 **FROM EL SALVADOR, GUATEMALA, HON-**
6 **DURAS, AND HAITI.**

7 (a) Section 202 of the Nicaraguan Adjustment and
8 Central American Relief Act is amended—

9 (1) in the section heading, by striking “NICA-
10 RAGUANS AND CUBANS” and inserting “NICA-
11 RAGUANS, CUBANS, SALVADORANS, GUATE-
12 MALANS, HONDURANS, and HAITIANS”;

13 (2) in subparagraph (a)(1)(A), by striking
14 “2000” and inserting “2003”;

15 (3) in paragraph (b)(1), by striking “Nicaragua
16 or Cuba” and inserting “Nicaragua, Cuba, El Sal-
17 vador, Guatemala, Honduras, or Haiti”;

18 (4) in subparagraph (d)(1)(E), by striking
19 “2000” and inserting “2003”.

20 (b) **EFFECTIVE DATE.**—The amendments made by
21 this section shall be effective upon the date of enactment
22 of this Act.

1 **SEC. 3. APPLICATIONS PENDING UNDER SECTION 203 OF**
2 **THE NICARAGUAN ADJUSTMENT AND CEN-**
3 **TRAL AMERICAN RELIEF ACT.**

4 An application for relief properly filed by a national
5 of Guatemala or El Salvador under section 203 of the Nic-
6 araguan Adjustment and Central American Relief Act
7 which was filed on or before the date of enactment of this
8 Act, and on which a final administrative determination has
9 not been made, may be converted by the applicant to an
10 application for adjustment of status under the provisions
11 of section 202 of the Nicaraguan Adjustment and Central
12 American Relief Act, as amended, upon the payment of
13 any fees, and in accordance with procedures, that the At-
14 torney General shall prescribe by regulation. The Attorney
15 General shall not be required to refund any fees paid in
16 connection with an application filed by a national of Gua-
17 temala or El Salvador under section 203 of the Nica-
18 ragan Adjustment and Central American Relief Act.

19 **SEC. 4. APPLICATIONS PENDING UNDER THE HAITIAN REF-**
20 **UGEE IMMIGRATION FAIRNESS ACT OF 1998.**

21 An application for adjustment of status properly filed
22 by a national of Haiti under the Haitian Refugee Immi-
23 gration Fairness Act of 1998 which was filed on or before
24 the date of enactment of this Act, and on which a final
25 administrative determination has not been made, may be
26 considered by the Attorney General, in her unreviewable

1 discretion, to also constitute an application for adjustment
2 of status under the provisions of section 202 of the Nica-
3 raguean Adjustment and Central American Relief Act, as
4 amended.

5 **SEC. 5. TECHNICAL AMENDMENTS TO THE NICARAGUAN**
6 **ADJUSTMENT AND CENTRAL AMERICAN RE-**
7 **LIEF ACT.**

8 (a) Section 202 of the Nicaraguan Adjustment and
9 Central American Relief Act is amended—

10 (1) in subparagraph (a)(1)(B), by adding after
11 the word “apply”—“and the Attorney General may,
12 in her unreviewable discretion, waive the grounds of
13 inadmissibility specified in clause 212(a)(1)(A)(i)
14 and paragraph 212(a)(6)(C) of the Immigration and
15 Nationality Act for humanitarian purposes, to as-
16 sure family unity, or when it is otherwise in the pub-
17 lic interest”;

18 (2) in subsection (a), by redesignating para-
19 graph (2) as paragraph (3), and adding the fol-
20 lowing as paragraph (2)—

21 “(2) INAPPLICABILITY OF CERTAIN PROVI-
22 SIONS.—In determining the eligibility of an alien de-
23 scribed in subsections (b) or (d) for either adjust-
24 ment of status under this section or other relief nec-
25 essary to establish eligibility for such adjustment,

1 the provisions of section 241(a)(5) of the Immigra-
2 tion and Nationality Act shall not apply. In addition,
3 an alien who would otherwise be inadmissible pursu-
4 ant to sections 212(a)(9) (A) or (C) of the Immigra-
5 tion and Nationality Act may apply for the Attorney
6 General’s consent to reapply for admission without
7 regard to the requirement that the consent be grant-
8 ed prior to the date of the alien’s reembarkation at
9 a place outside the United States or attempt to be
10 admitted from foreign contiguous territory, in order
11 to qualify for the exception to those grounds of inad-
12 missibility set forth in sections 212(a)(9)(A)(iii) and
13 212(a)(9)(C)(ii) of the Immigration and Nationality
14 Act.”

15 (3) in subsection (a), by striking redesignated
16 paragraph (3), and inserting in its place—

17 “(3) RELATIONSHIP OF APPLICATION TO CER-
18 TAIN ORDERS.—An alien present in the United
19 States who has been ordered excluded, deported, or
20 removed, or ordered to depart voluntarily from the
21 United States under any provision of the Immigra-
22 tion and Nationality Act may, notwithstanding such
23 order, apply for adjustment of status under para-
24 graph (1). Such an alien may not be required, as a
25 condition of submitting or granting such application,

1 to file a separate motion to reopen, reconsider, or
2 vacate such order. Such an alien may be required to
3 seek a stay of such an order in accordance with sub-
4 section (c) to prevent the execution of that order
5 pending the adjudication of the application for ad-
6 justment of status. If the Attorney General denies a
7 stay of a final order of exclusion, deportation, or re-
8 moval, or if the Attorney General renders a final ad-
9 ministrative determination to deny the application
10 for adjustment of status, the order shall be effective
11 and enforceable to the same extent as if the applica-
12 tion had not been made. If the Attorney General
13 grants the application for adjustment of status, the
14 Attorney General shall cancel the order.”

15 (4) in paragraph (b)(1), by adding at the end
16 the following—“However, subsection (a) shall not
17 apply to an alien lawfully admitted for permanent
18 residence, unless he or she is applying for such relief
19 in deportation or removal proceedings.”

20 (5) in paragraph (c)(1), by adding at the end
21 the following—“Nothing in this Act shall require the
22 Attorney General to stay the removal of an alien
23 who is ineligible for adjustment of status under this
24 Act.”

25 (6) in subsection (d)—

1 (A) by revising the subsection heading to
2 read “SPOUSES, CHILDREN, AND UNMARRIED
3 SONS AND DAUGHTERS.—”;

4 (B) in paragraph (1), by revising the hear-
5 ing to read “ADJUSTMENT OF STATUS.—”;

6 (C) by striking subparagraph (1)(A), and
7 replacing it with the following—

8 “(A) the alien entered the United
9 States on or before the date of enactment
10 of the Central American and Haitian Ad-
11 justment Act of 1999;”;

12 (D) in subparagraph (1)(B), by inserting
13 the following after “except that”—“: (i) in the
14 case of such a spouse, stepchild, or unmarried
15 stepson or stepdaughter, the qualifying mar-
16 riage was entered into before the date of enact-
17 ment of the Central American and Haitian Ad-
18 justment Act of 1999; and (ii)”; and

19 (E) by creating a new paragraph (3) to
20 read as follows—

21 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
22 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

23 “(A) In accordance with regulations to be
24 promulgated by the attorney General and the
25 Secretary of State, upon approval of an applica-

1 tion for adjustment of status to that of an alien
2 lawfully admitted for permanent residence
3 under subsection (a), an alien who is the spouse
4 or child of the alien being granted such status
5 may be issued a visa for admission to the
6 United States as an immigrant following to join
7 the principal applicant, provided that the
8 spouse or child:

9 “(i) meets the requirements in sub-
10 paragraphs (1) (B) and (D); and

11 “(ii) applies for such a visa within a
12 time period to be established by regulation.

13 “(B) The Secretary of State may retain
14 fees to recover the cost of immigrant visa appli-
15 cation processing and issuance for certain
16 spouses and children of aliens whose applica-
17 tions for adjustment of status under subsection
18 (a) have been approved, provided that such
19 fees:

20 “(i) shall be deposited as an offsetting
21 collection to any Department of State ap-
22 propriation to recover the cost of such
23 processing and issuance; and

1 “(ii) shall be available until expended
2 for the same purposes of such appropria-
3 tion to support consular activities.”;

4 (7) in subsection (g), by inserting after “for perma-
5 nent residence” the following—“or an immigrant classi-
6 fication”; and

7 (8) by adding at the end the following subsection—

8 “(i) ADMISSIONS. Nothing in this sec-
9 tion shall be construed as authorizing an
10 alien to apply for admission to, be admit-
11 ted to, be paroled into, or otherwise law-
12 fully return to the United States, to apply
13 for or to pursue an application for adjust-
14 ment of status under this section without
15 the express authorization of the Attorney
16 General.”

17 (b) EFFECTIVE DATE.—The amendments made
18 by sections 5(a)(3), 5(a)(4), and 5(a)(8) of this Act
19 shall be effective as if included in the enactment of
20 the Nicaraguan and Central American Relief Act.
21 The amendments made by sections 5(a)(1), 5(a)(2),
22 5(a)(5), 5(a)(6), and 5(a)(7) shall effective as of the
23 date of enactment of this Act.

1 **SEC. 6. TECHNICAL AMENDMENTS TO THE HAITIAN IMMI-**
2 **GRATION FAIRNESS ACT OF 1998.**

3 (a) Section 902 of the Haitian Refugee Immigration
4 Fairness Act of 1998 is amended—

5 (1) in subparagraph (a)(1)(B), by adding after
6 the word “apply”—“and the Attorney General may,
7 in her unreviewable discretion, waive the grounds of
8 inadmissibility specified in clause 212(a)(1)(A)(i)
9 and paragraph 212(a)(6)(C) of the Immigration and
10 Nationality Act for humanitarian purposes, to as-
11 sure family unity, or when it is otherwise in the pub-
12 lic interest”;

13 (2) in subsection (a), by redesignating para-
14 graph (2) as paragraph (3), and adding the fol-
15 lowing as paragraph (2)—

16 “(2) INAPPLICABILITY OF CERTAIN PROVI-
17 SIONS.—In determining the eligibility of an alien de-
18 scribed in subsections (b) or (d) for either adjust-
19 ment of status under this section or other relief nec-
20 essary to establish eligibility for such adjustment, or
21 for permission to reapply for admission to the
22 United States for the purpose of adjustment of sta-
23 tus under this section, the provisions of section
24 241(a)(5) of the Immigration and Nationality Act
25 shall not apply. In addition, an alien who would oth-
26 erwise be inadmissible pursuant to sections

1 212(a)(9)(A) or (C) of the Immigration and Nation-
2 ality Act may apply for the Attorney General’s con-
3 sent to reapply for admission without regard to the
4 requirement that the consent be granted prior to the
5 date of the alien’s reembarkation at a place outside
6 the United States or attempt to be admitted from
7 foreign contiguous territory, in order to qualify for
8 the exception to those grounds of inadmissibility set
9 forth in sections 212(a)(9)(A)(iii) and
10 212(a)(9)(C)(ii) of the Immigration and Nationality
11 Act.”

12 (3) in subsection (a), by striking redesignated
13 paragraph (3), and inserting in its place—

14 “(3) RELATIONSHIP OF APPLICATION TO CER-
15 TAIN ORDERS.—An alien present in the United
16 States who has been ordered excluded, deported, or
17 removed, or ordered to depart voluntarily from the
18 United States under any provision of the Immigra-
19 tion and Nationality Act may, notwithstanding such
20 order, apply for adjustment of status under para-
21 graph (1). Such an alien may not be required, as a
22 condition of submitting or granting such application,
23 to file a separate motion to reopen, reconsider, or
24 vacate such order. Such an alien may be required to
25 seek a stay of such an order in accordance with sub-

1 section (c) to prevent the execution of that order
2 pending the adjudication of the application for ad-
3 justment of status. If the Attorney General denies a
4 stay of a final order of exclusion, deportation, or re-
5 moval, or if the Attorney General renders a final ad-
6 ministrative determination to deny the application
7 for adjustment of status, the order shall be effective
8 and enforceable to the same extent as if the applica-
9 tion had not been made. If the Attorney General
10 grants the application for adjustment of status, the
11 Attorney General shall cancel the order.”

12 (4) in paragraph (b)(1), by adding at the end
13 the following—“However, subsection (a) shall not
14 apply to an alien lawfully admitted for permanent
15 residence, unless he or she is applying for such relief
16 in deportation or removal proceedings.”

17 (5) in paragraph (c)(1), by adding at the end
18 the following—“Nothing in this Act shall require the
19 Attorney General to stay the removal of an alien
20 who is ineligible for adjustment of status under this
21 Act.”

22 (6) in subsection (d)—

23 (A) by revising the subsection heading to
24 read “SPOUSES, CHILDREN, AND UNMARRIED
25 SONS AND DAUGHTERS.—”;

1 (B) in paragraph (1), by revising the head-
2 ing to read “ADJUSTMENT OF STATUS.—”;

3 (C) by striking subparagraph (1)(A), and
4 replacing it with the following—

5 “(A) the alien entered the United States
6 on or before the date of enactment of the Cen-
7 tral American and Haitian Adjustment Act of
8 1999;”;

9 (D) in subparagraph (1)(B), by inserting
10 the following after “except that”—“: (i) in the
11 case of such a spouse, stepchild, or unmarried
12 stepson or stepdaughter, the qualifying mar-
13 riage was entered into before the date of enact-
14 ment of the Central American and Haitian Ad-
15 justment Act of 1999; and (ii)”;

16 (E) in paragraph (1), by creating a new
17 subparagraph (E) as follows—

18 “(E) the alien applies for such adjustment
19 before April 3, 2003.”; and

20 (F) by creating a new paragraph (3) to
21 read as follows—

22 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
23 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

24 (A) In accordance with regulations to be
25 promulgated by the Attorney General and the

1 Secretary of State, upon approval of an applica-
2 tion for adjustment of status to that of an alien
3 lawfully admitted for permanent residence
4 under subsection (a), an alien who is the spouse
5 or child of the alien being granted such status
6 may be issued a visa for admission to the
7 United States as an immigrant following to join
8 the principal applicant, provided that the
9 spouse or child:

10 (i) meets the requirements in subpara-
11 graphs (1) (B) and (D); and

12 (ii) applies for such a visa within a
13 time period to be established by regulation.

14 (B) The Secretary of State may retain fees
15 to recover the cost of immigrant visa applica-
16 tion processing and issuance for certain spouses
17 and children of aliens whose applications for ad-
18 justment of status under subsection (a) have
19 been approved, provided that such fees:

20 (i) shall be deposited as an offsetting
21 collection to any Department of State ap-
22 propriation to recover the cost of such
23 processing and issuance; and

1 (ii) shall be available until expended
2 for the same purposes of such appropria-
3 tion to support consular activities.”;

4 (7) in subsection (g), by inserting after “for
5 permanent residence” the following—“or an immi-
6 grant classification”; and

7 (8) by redesignating subsections (i), (j), and (k)
8 as (j), (k), and (l) respectively, and adding as sub-
9 section (i) the following—

10 “(i) ADMISSIONS.—Nothing in this section shall be
11 construed as authorizing an alien to apply for admission
12 to, be admitted to, be paroled into, or otherwise lawfully
13 return to the United States, to apply for or to pursue an
14 application for adjustment of status under this section
15 without the express authorization of the Attorney Gen-
16 eral.”

17 (b) EFFECTIVE DATE.—The amendments made by
18 sections 6(a)(3), 6(a)(4), and 6(a)(8) of this Act shall be
19 effective as if included in the enactment of the Haitian
20 Refugee Immigration Fairness Act of 1998. The amend-
21 ments made by sections 6(a)(1), 6(a)(2), 6(a)(5), 6(a)(6),
22 and 6(a)(7) shall be effective as of the date of enactment
23 of this Act.

1 **SEC. 7. MOTIONS TO REOPEN.**

2 (a) Notwithstanding any time and number limitations
3 imposed by law on motions to reopen, a national of Haiti
4 who, on the date of enactment of this Act, has a final
5 administrative denial of an application for adjustment of
6 status under the Haitian Refugee Immigration Fairness
7 Act of 1988, and is made eligible for adjustment of status
8 under that Act by the amendments made by this Act, may
9 file one motion to reopen exclusion, deportation, or re-
10 moval proceedings to have the application considered
11 again. All such motions shall be filed within 180 days of
12 the date of enactment of this Act. The scope of any pro-
13 ceeding reopened on this basis shall be limited to a deter-
14 mination of the alien's eligibility for adjustment of status
15 under the Haitian Refugee Immigration Fairness Act of
16 1988.

17 (b) Notwithstanding any time and number limitations
18 imposed by law on motions to reopen, a national of Cuba
19 or Nicaragua who, on the date of enactment of the Act,
20 has a final administrative denial of an application for ad-
21 justment of status under the Nicaraguan Adjustment and
22 Central American Relief Act, and who is made eligible for
23 adjustment of status under that Act by the amendments
24 made by this Act, may file one motion to reopen exclusion,
25 deportation, or removal proceedings to have the applica-
26 tion considered again. All such motions shall be filed with-

1 in 180 days of the date of enactment of this Act. The
2 scope of any proceeding reopened on this basis shall be
3 limited to a determination of the alien's eligibility for ad-
4 justment of status under the Nicaraguan Adjustment and
5 Central American Relief Act.

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