

106TH CONGRESS
1ST SESSION

H. R. 2741

To adjust the immigration status of certain Colombian and Peruvian nationals who are in the United States.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. DIAZ-BALART (for himself, Ms. ROS-LEHTINEN, Mr. SMITH of New Jersey, Mr. GILMAN, Mr. DAVIS of Virginia, Mr. MENENDEZ, Mr. WATTS of Oklahoma, Mr. MCCOLLUM, and Mr. BONILLA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To adjust the immigration status of certain Colombian and Peruvian nationals who are in the United States.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Andean Adjustment
5 Act of 1999”.

6 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN COLOMBIAN**
7 **AND PERUVIAN NATIONALS.**

8 (a) ADJUSTMENT OF STATUS.—

1 (1) IN GENERAL.—Notwithstanding section
2 245(c) of the Immigration and Nationality Act, the
3 status of any alien described in subsection (b) shall
4 be adjusted by the Attorney General to that of an
5 alien lawfully admitted for permanent residence, if
6 the alien—

7 (A) applies for such adjustment before
8 April 1, 2003; and

9 (B) is otherwise eligible to receive an im-
10 migrant visa and is otherwise admissible to the
11 United States for permanent residence, except
12 in determining such admissibility the grounds
13 for inadmissibility specified in paragraphs (4),
14 (5), (6)(A), and (7)(A) of section 212(a) of the
15 Immigration and Nationality Act shall not
16 apply.

17 (2) RELATIONSHIP OF APPLICATION TO CER-
18 TAIN ORDERS.—An alien present in the United
19 States who has been ordered excluded, deported, re-
20 moved, 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 on submitting or granting such applica-

1 tion, to file a motion to reopen, reconsider, or vacate
2 such order. If the Attorney General grants the appli-
3 cation, the Attorney General shall cancel the order.
4 If the Attorney General renders a final administra-
5 tive decision to deny the application, the order shall
6 be effective and enforceable to the same extent as if
7 the application had not been made.

8 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
9 TUS.—The benefits provided by subsection (a) shall apply
10 to any alien who is a national of Colombia or Peru—

11 (1) who was physically present in the United
12 States on December 1, 1995; and

13 (2) has been physically present in the United
14 States for at least 1 year and is physically present
15 in the United States on the date the application for
16 adjustment of status under this Act is filed, except
17 an alien shall not be considered to have failed to
18 maintain continuous physical presence by reason of
19 an absence, or absences, from the United States for
20 any periods in the aggregate not exceeding 180
21 days.

22 (c) STAY OF REMOVAL.—

23 (1) IN GENERAL.—The Attorney General shall
24 provide by regulation for an alien subject to a final
25 order of deportation, removal, or exclusion to seek a

1 stay of such order based on the filing of an applica-
2 tion under subsection (a).

3 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
4 standing any provision of the Immigration and Na-
5 tionality Act, the Attorney General shall not order
6 any alien to be removed from the United States, if
7 the alien is in exclusion, deportation, or removal pro-
8 ceedings under any provision of such Act and raises
9 as a defense to such an order the eligibility of the
10 alien to apply for adjustment of status under sub-
11 section (a), except where the Attorney General has
12 rendered a final administrative determination to
13 deny the application.

14 (3) WORK AUTHORIZATION.—The Attorney
15 General may authorize an alien who has applied for
16 adjustment of status under subsection (a) to engage
17 in employment in the United States during the
18 pendency of such application and may provide the
19 alien with an “employment authorized” endorsement
20 or other appropriate document signifying authoriza-
21 tion of employment, except that if such application
22 is pending for a period exceeding 180 days, and has
23 not been denied, the Attorney General shall author-
24 ize such employment.

1 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
2 CHILDREN.—

3 (1) IN GENERAL.—Notwithstanding section
4 245(c) of the Immigration and Nationality Act, the
5 status of an alien shall be adjusted by the Attorney
6 General to that of an alien lawfully admitted for per-
7 manent residence, if—

8 (A) the alien is the spouse, child, or un-
9 married son or daughter, of an alien whose sta-
10 tus is adjusted to that of an alien lawfully ad-
11 mitted for permanent residence under sub-
12 section (a), except that in the case of such an
13 unmarried son or daughter, the son or daughter
14 shall be required to establish that they have
15 been physically present in the United States for
16 at least 1 year;

17 (B) the alien applies for such adjustment
18 and is physically present in the United States
19 on the date the application is filed; and

20 (C) the alien is otherwise eligible to receive
21 an immigrant visa and is otherwise admissible
22 to the United States for permanent residence,
23 except in determining such admissibility the
24 grounds for exclusion specified in paragraphs
25 (4), (5), (6)(A), and (7)(A) of section 212(a) of

1 the Immigration and Nationality Act shall not
2 apply.

3 (2) PROOF OF CONTINUOUS PRESENCE.—For
4 purposes of establishing the period of continuous
5 physical presence referred to in paragraph (1)(B),
6 an alien shall not be considered to have failed to
7 maintain continuous physical presence by reason of
8 an absence, or absences, from the United States for
9 any periods in the aggregate not exceeding 180
10 days.

11 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
12 The Attorney General shall provide to applicants for ad-
13 justment of status under subsection (a) the same right to,
14 and procedures for, administrative review as are provided
15 to—

16 (1) applicants for adjustment of status under
17 section 245 of the Immigration and Nationality Act;
18 or

19 (2) aliens subject to removal proceedings under
20 section 240 of such Act.

21 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-
22 mination by the Attorney General as to whether the status
23 of any alien should be adjusted under this Act is final and
24 shall not be subject to review by any court.

1 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
2 When an alien is granted the status of having been law-
3 fully admitted for permanent residence pursuant to this
4 Act, the Secretary of State shall not be required to reduce
5 the number of immigrant visas authorized to be issued
6 under any provision of the Immigration and Nationality
7 Act.

8 (h) APPLICATION OF IMMIGRATION AND NATION-
9 ALITY ACT PROVISIONS.—Except as otherwise specifically
10 provided in this section, the definitions contained in the
11 Immigration and Nationality Act shall apply in the admin-
12 istration of this Act. Nothing contained in this Act shall
13 be held to repeal, amend, alter, modify, effect, or restrict
14 the powers, duties, functions, or authority of the Attorney
15 General in the administration and enforcement of such
16 Act or any other law relating to immigration, nationality,
17 or naturalization. The fact that an alien may be eligible
18 to be granted the status of having been lawfully admitted
19 for permanent residence under this section shall not pre-
20 clude the alien from seeking such status under any other
21 provision of law for which the alien may be eligible.

○