

111TH CONGRESS
2^D SESSION

H. R. 6327

To authorize the cancellation of removal and adjustment of status of certain aliens who are long-term United States residents and who entered the United States as children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. DJOU introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the cancellation of removal and adjustment of status of certain aliens who are long-term United States residents and who entered the United States as children, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Citizenship and Service
5 Act of 2010”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education” has the
3 meaning given that term in section 101 of the High-
4 er Education Act of 1965 (20 U.S.C. 1001).

5 (2) UNIFORMED SERVICES.—The term “uni-
6 formed services” has the meaning given that term in
7 section 101(a) of title 10, United States Code.

8 **SEC. 3. CANCELLATION OF REMOVAL AND ADJUSTMENT OF**
9 **STATUS OF CERTAIN LONG-TERM RESIDENTS**
10 **WHO ENTERED THE UNITED STATES AS CHIL-**
11 **DREN.**

12 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-
13 DENTS WHO ENTERED THE UNITED STATES AS CHIL-
14 DREN.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law and except as otherwise provided in
17 this Act, the Secretary of Homeland Security may
18 cancel removal of, and adjust to the status of an
19 alien lawfully admitted for permanent residence,
20 subject to the conditional basis described in section
21 4, an alien who is inadmissible or deportable from
22 the United States, if the alien demonstrates that—

23 (A) the alien has been physically present in
24 the United States for a continuous period of
25 not less than 5 years immediately preceding the

1 date of enactment of this Act, and had not yet
2 reached the age of 16 years at the time of ini-
3 tial entry;

4 (B) the alien has been a person of good
5 moral character since the time of application;

6 (C) the alien—

7 (i) is not inadmissible under para-
8 graph (2), (3), or (6)(E) of section 212(a)
9 of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)); and

11 (ii) is not deportable under paragraph
12 (1)(E), (2), or (4) of section 237(a) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1227(a)); and

15 (D) the alien, at the time of application,
16 has been admitted to an institution of higher
17 education in the United States, or has earned
18 a high school diploma or obtained a general
19 education development certificate in the United
20 States.

21 (2) WAIVER.—Notwithstanding paragraph (1),
22 the Secretary of Homeland Security may waive the
23 grounds of ineligibility under section 212(a)(2) of
24 the Immigration and Nationality Act, and the
25 grounds of deportability under paragraphs (1)(E)

1 and (2) of section 237(a) of such Act, if the Sec-
2 retary determines that the alien's removal would re-
3 sult in extreme hardship to the alien, the alien's
4 child, or (in the case of an alien who is a child) to
5 the alien's parent.

6 (3) PROCEDURES.—The Secretary of Homeland
7 Security shall provide a procedure by regulation al-
8 lowing eligible individuals to apply affirmatively for
9 the relief available under this subsection without
10 being placed in removal proceedings.

11 (b) TERMINATION OF CONTINUOUS PERIOD.—For
12 purposes of this section, any period of continuous resi-
13 dence or continuous physical presence in the United States
14 of an alien who applies for cancellation of removal under
15 this section shall not terminate when the alien is served
16 a notice to appear under section 239(a) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1229(a)).

18 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
19 ENCE.—

20 (1) IN GENERAL.—An alien shall not be consid-
21 ered to have failed to maintain continuous physical
22 presence in the United States for purposes of sub-
23 section (a)(1)(A) by virtue of brief, casual, and inno-
24 cent absences from the United States.

1 (2) WAIVER.—The Secretary of Homeland Se-
2 curity may waive breaks in presence beyond brief,
3 casual, or innocent absences for humanitarian pur-
4 poses, family unity, or when it is otherwise in the
5 public interest.

6 (d) EXEMPTION FROM NUMERICAL LIMITATIONS.—
7 Nothing in this section may be construed to apply a nu-
8 merical limitation on the number of aliens who may be
9 eligible for cancellation of removal or adjustment of status
10 under this section.

11 (e) REGULATIONS.—

12 (1) PROPOSED REGULATIONS.—Not later than
13 180 days after the date of the enactment of this Act,
14 the Secretary of Homeland Security shall publish
15 proposed regulations implementing this section.
16 Such regulations shall be effective immediately on an
17 interim basis, but are subject to change and revision
18 after public notice and opportunity for a period for
19 public comment.

20 (2) INTERIM, FINAL REGULATIONS.—Not later
21 than 90 days after publication of the interim regula-
22 tions in accordance with paragraph (1), the Sec-
23 retary of Homeland Security shall publish final regu-
24 lations implementing this section.

1 (f) REMOVAL OF ALIEN.—The Secretary of Home-
2 land Security may not remove any alien who has a pending
3 application for conditional status under this Act.

4 **SEC. 4. CONDITIONAL PERMANENT RESIDENT STATUS.**

5 (a) IN GENERAL.—

6 (1) CONDITIONAL BASIS FOR STATUS.—Not-
7 withstanding any other provision of law, and except
8 as provided in section 5, an alien whose status has
9 been adjusted under section 3 to that of an alien
10 lawfully admitted for permanent residence shall be
11 considered to have obtained such status on a condi-
12 tional basis subject to the provisions of this section.
13 Such conditional permanent resident status shall be
14 valid for a period of 6 years, subject to termination
15 under subsection (b).

16 (2) NOTICE OF REQUIREMENTS.—

17 (A) AT TIME OF OBTAINING PERMANENT
18 RESIDENCE.—At the time an alien obtains per-
19 manent resident status on a conditional basis
20 under paragraph (1), the Secretary of Home-
21 land Security shall provide for notice to the
22 alien regarding the provisions of this section
23 and the requirements of subsection (c) to have
24 the conditional basis of such status removed.

1 (B) EFFECT OF FAILURE TO PROVIDE NO-
2 TICE.—The failure of the Secretary of Home-
3 land Security to provide a notice under this
4 paragraph—

5 (i) shall not affect the enforcement of
6 the provisions of this Act with respect to
7 the alien; and

8 (ii) shall not give rise to any private
9 right of action by the alien.

10 (3) ELIGIBILITY FOR MILITARY SERVICE.—For
11 purposes of section 504(b)(1), an alien whose status
12 has been adjusted under section 3 shall be treated
13 as an alien who is lawfully admitted for permanent
14 residence, as defined in section 101(a)(20) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1101(a)(20)).

17 (b) TERMINATION OF STATUS.—

18 (1) IN GENERAL.—The Secretary of Homeland
19 Security shall terminate the conditional permanent
20 resident status of any alien who obtained such sta-
21 tus under this Act, if the Secretary determines that
22 the alien—

23 (A) ceases to meet the requirements of
24 subparagraph (B) or (C) of section 3(a)(1);

25 (B) has become a public charge; or

1 (C) has received a dishonorable or other
2 than honorable discharge from the uniformed
3 services.

4 (2) RETURN TO PREVIOUS IMMIGRATION STA-
5 TUS.—Any alien whose conditional permanent resi-
6 dent status is terminated under paragraph (1) shall
7 return to the immigration status the alien had im-
8 mediately prior to receiving conditional permanent
9 resident status under this Act.

10 (c) REQUIREMENTS OF TIMELY PETITION FOR RE-
11 MOVAL OF CONDITION.—

12 (1) IN GENERAL.—In order for the conditional
13 basis of permanent resident status obtained by an
14 alien under subsection (a) to be removed, the alien
15 must file with the Secretary of Homeland Security,
16 in accordance with paragraph (3), a petition which
17 requests the removal of such conditional basis and
18 which provides, under penalty of perjury, the facts
19 and information so that the Secretary may make the
20 determination described in paragraph (2)(A).

21 (2) ADJUDICATION OF PETITION TO REMOVE
22 CONDITION.—

23 (A) IN GENERAL.—If a petition is filed in
24 accordance with paragraph (1) for an alien, the
25 Secretary of Homeland Security shall make a

1 determination as to whether the alien meets the
2 requirements set out in subparagraphs (A)
3 through (E) of subsection (d)(1).

4 (B) REMOVAL OF CONDITIONAL BASIS IF
5 FAVORABLE DETERMINATION.—If the Secretary
6 determines that the alien meets such require-
7 ments, the Secretary shall notify the alien of
8 such determination and immediately remove the
9 conditional basis of the status of the alien.

10 (C) TERMINATION IF ADVERSE DETER-
11 MINATION.—If the Secretary determines that
12 the alien does not meet such requirements, the
13 Secretary shall notify the alien of such deter-
14 mination and terminate the conditional perma-
15 nent resident status of the alien as of the date
16 of the determination.

17 (3) TIME TO FILE PETITION.—An alien may pe-
18 tition to remove the conditional basis to lawful resi-
19 dent status during the period beginning 180 days
20 before and ending 2 years after either the date that
21 is 6 years after the date of the granting of condi-
22 tional permanent resident status or any other expi-
23 ration date of the conditional permanent resident
24 status as extended by the Secretary of Homeland
25 Security in accordance with this Act. The alien shall

1 be deemed in conditional permanent resident status
2 in the United States during the period in which the
3 petition is pending.

4 (d) DETAILS OF PETITION.—

5 (1) CONTENTS OF PETITION.—Each petition
6 for an alien under subsection (c)(1) shall contain in-
7 formation to permit the Secretary of Homeland Se-
8 curity to determine whether each of the following re-
9 quirements is met:

10 (A) The alien has demonstrated good
11 moral character during the entire period the
12 alien has been a conditional permanent resi-
13 dent.

14 (B) The alien is in compliance with section
15 3(a)(1)(C).

16 (C) The alien has not abandoned the
17 alien's residence in the United States. The Sec-
18 retary shall presume that the alien has aban-
19 doned such residence if the alien is absent from
20 the United States for more than 365 days, in
21 the aggregate, during the period of conditional
22 residence, unless the alien demonstrates that
23 alien has not abandoned the alien's residence.
24 An alien who is absent from the United States
25 due to active service in the uniformed services

1 shall not be considered to have abandoned the
2 alien's residence in the United States during
3 the period of such service.

4 (D) The alien has served in the uniformed
5 services for at least 2 years and, if discharged,
6 has received an honorable discharge.

7 (E) The alien has provided a list of all of
8 the secondary educational institutions that the
9 alien attended in the United States.

10 (2) HARDSHIP EXCEPTION.—

11 (A) IN GENERAL.—The Secretary of
12 Homeland Security may, in the Secretary's dis-
13 cretion, remove the conditional status of an
14 alien if the alien—

15 (i) satisfies the requirements of sub-
16 paragraphs (A), (B), and (C) of paragraph
17 (1);

18 (ii) demonstrates compelling cir-
19 cumstances for the inability to complete
20 the requirements described in paragraph
21 (1)(D); and

22 (iii) demonstrates that the alien's re-
23 moval from the United States would result
24 in exceptional and extremely unusual hard-
25 ship to the alien or the alien's spouse, par-

1 ent, or child who is a citizen or a lawful
2 permanent resident of the United States.

3 (B) EXTENSION.—Upon a showing of good
4 cause, the Secretary of Homeland Security may
5 extend the period of the conditional resident
6 status for the purpose of completing the re-
7 quirements described in paragraph (1)(D).

8 (e) TREATMENT OF PERIOD FOR PURPOSES OF NAT-
9 URALIZATION.—Except as otherwise provided under this
10 Act, an alien who is in the United States as a lawful per-
11 manent resident on a conditional basis under this section
12 shall be considered to have been admitted as an alien law-
13 fully admitted for permanent residence and to be in the
14 United States as an alien lawfully admitted to the United
15 States for permanent residence. However, the conditional
16 basis must be removed before the alien may apply for nat-
17 uralization.

18 **SEC. 5. APPLICABILITY.**

19 If, on the date of the enactment of this Act, an alien
20 has satisfied all the requirements of subparagraphs (A)
21 through (D) of section 3(a)(1) and section 4(d)(1)(D), the
22 Secretary of Homeland Security may adjust the status of
23 the alien to that of a conditional resident in accordance
24 with section 3. The alien may petition for removal of such
25 condition at the end of the conditional residence period

1 in accordance with section 4(c) if the alien has met the
2 requirements of subparagraphs (A), (B), and (C) of sec-
3 tion 4(d)(1) during the entire period of conditional resi-
4 dence.

5 **SEC. 6. EXCLUSIVE JURISDICTION.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-
7 rity shall have exclusive jurisdiction to determine eligibility
8 for relief under this Act, except where the alien has been
9 placed into deportation, exclusion, or removal proceedings
10 either prior to or after filing an application for relief under
11 this Act, in which case the Attorney General shall have
12 exclusive jurisdiction and shall assume all the powers and
13 duties of the Secretary until proceedings are terminated,
14 or if a final order of deportation, exclusion, or removal
15 is entered the Secretary shall resume all powers and duties
16 delegated to the Secretary under this Act.

17 (b) STAY OF REMOVAL OF CERTAIN ALIENS EN-
18 ROLLED IN PRIMARY OR SECONDARY SCHOOL.—The At-
19 torney General shall stay the removal proceedings of any
20 alien who—

21 (1) meets all the requirements of subpara-
22 graphs (A), (B), (C), and (E) of section 3(a)(1);

23 (2) is at least 12 years of age; and

24 (3) is enrolled full time in a primary or sec-
25 ondary school.

1 (c) EMPLOYMENT.—An alien whose removal is stayed
2 pursuant to subsection (b) may be engaged in employment
3 in the United States, consistent with the Fair Labor
4 Standards Act of 1938 (29 U.S.C. 201 et seq.), and State
5 and local laws governing minimum age for employment.

6 (d) LIFT OF STAY.—The Attorney General shall lift
7 the stay granted pursuant to subsection (b) if the alien—

8 (1) is no longer enrolled in a primary or sec-
9 ondary school; or

10 (2) ceases to meet the requirements of sub-
11 section (b)(1).

12 **SEC. 7. CONFIDENTIALITY OF INFORMATION.**

13 (a) PROHIBITION.—No officer or employee of the
14 United States may—

15 (1) use the information furnished by the appli-
16 cant pursuant to an application filed under this Act
17 to initiate removal proceedings against any persons
18 identified in the application;

19 (2) make any publication whereby the informa-
20 tion furnished by any particular individual pursuant
21 to an application under this Act can be identified; or

22 (3) permit anyone other than an officer or em-
23 ployee of the United States Government or, in the
24 case of applications filed under this Act with a des-

1 ignated entity, that designated entity, to examine
2 applications filed under this Act.

3 (b) **REQUIRED DISCLOSURE.**—The Attorney General
4 or the Secretary of Homeland Security shall provide the
5 information furnished under this section, and any other
6 information derived from such furnished information, to—

7 (1) a duly recognized law enforcement entity in
8 connection with an investigation or prosecution of an
9 offense described in paragraph (2) or (3) of section
10 212(a) of the Immigration and Nationality Act (8
11 U.S.C. 1182(a)), when such information is requested
12 in writing by such entity; or

13 (2) an official coroner for purposes of affirma-
14 tively identifying a deceased individual (whether or
15 not such individual is deceased as a result of a
16 crime).

17 (c) **PENALTY.**—Whoever knowingly uses, publishes,
18 or permits information to be examined in violation of this
19 section shall be fined not more than \$10,000.

20 **SEC. 8. EXPEDITED PROCESSING OF APPLICATIONS; PRO-**
21 **HIBITION ON FEES.**

22 Regulations promulgated under this Act shall provide
23 that applications under this Act will be considered on an
24 expedited basis and without a requirement for the pay-

1 ment by the applicant of any additional fee for such expe-
2 dited processing.

3 **SEC. 9. HIGHER EDUCATION ASSISTANCE.**

4 Notwithstanding any provision of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1001 et seq.) or any provi-
6 sion of title IV of the Personal Responsibility and Work
7 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601
8 et seq.), with respect to Federal financial education assist-
9 ance, an alien who is lawfully admitted for permanent resi-
10 dence under this Act and has not had the conditional basis
11 removed shall not be eligible for—

12 (1) Federal Pell grants under part A of title IV
13 of the Higher Education Act of 1965 (20 U.S.C.
14 1070a et seq.); and

15 (2) Federal supplemental educational oppor-
16 tunity grants under part A of title IV of that Act
17 (20 U.S.C. 1070b et seq.).

18 **SEC. 10. GAO REPORT.**

19 Not later than 7 years after the date of enactment
20 of this Act, the Comptroller General of the United States
21 shall submit a report to the Committees on the Judiciary
22 of the Senate and the House of Representatives setting
23 forth—

1 (1) the number of aliens who were eligible for
2 cancellation of removal and adjustment of status
3 under section 3(a);

4 (2) the number of aliens who applied for adjust-
5 ment of status under section 3(a);

6 (3) the number of aliens who were granted ad-
7 justment of status under section 3(a); and

8 (4) the number of aliens whose conditional per-
9 manent resident status was removed under section
10 4.

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