

Removal of Condition on Permanent Residence Based on Marriage Form I-751

Your permanent residence status is *conditional* if based on a marriage that was less than two years old *on the day* you were *granted* permanent residence. You and your spouse should apply together (joint filing) to remove the conditions on your residence. You should apply during the **90 days before your second anniversary of conditional residence**. If you do not apply to remove the conditions in time, you could lose your conditional resident status and be subject to removal.

Eligibility to Remove Condition on Permanent Residence. You may apply to remove your conditions on permanent residence if:

- You are *still married* to the same U.S. citizen or lawful permanent resident after two years (your children may be included in your application if they got their conditional resident status at the same time that you did or within 90 days). You file within 90-days before the expiration of the 2-year conditional resident green card.
- You entered into a *marriage in good faith*, but the marriage ended through divorce or annulment. You can file any time after receiving the final divorce decree.
- You are a *widow or widower* of a marriage that was entered into in good faith. You can file any time after receiving the death certificate.
- You entered into a marriage in good faith, but either you or your child were abused/battered or subjected to extreme hardship by your U.S. citizen or lawful permanent resident spouse.
- The termination of your conditional resident status would cause extreme hardship to you.

You do not need to be physically present in the United States at the time of filing. The Form I-751, Petition to Remove the Conditions on Residence can be filed **regardless** of whether you are physically present in the United States at the time that you file. However you must return to the United States with your spouse and your children if the USCIS schedules an interview.

Work Authorization. As a U.S. permanent resident, you should have received a permanent resident card. This card will continue to prove that you have a right to live and work in the United States permanently. If you file your USCIS Form I-751 (Petition to Remove the Conditions on Residence) on time, the USCIS will **extend your conditional resident** status for up to 12 months while your Form I-751 petition is under review. This work and travel authorization is evidenced by the USCIS receipt notice.

Waiver of the Joint Filing Requirement. There are three general situations for filing the Removal of Conditions *without* filing jointly with your spouse—**divorce, death or abuse**. You must still prove that the marriage was bona fide at the beginning of the marriage—that the intention was to have a shared life together and not only for an immigration benefit.

USCIS Interview of the Joint Petitioners. The USCIS reviews the petition to determine whether an interview is required. If satisfied that your marriage was not entered into in order to obtain immigration benefits, the USCIS may waive the interview requirement and approve the petition. If not, the district office will contact you to conduct an interview.

USCIS interview of the self-petitioner. The USCIS reviews the waiver request petition and generally will schedule an interview to confirm the basis for the waiver (good faith, death or abuse).

Form I-751 Document List (photocopies only)

- USCIS I-551 Permanent Resident Card
- IRS income tax printout for the years following approval of Conditional Residence
- IRS income tax returns for the years following the approval of Conditional Residence
- Other evidence of the bona fides of the marriage; including, but not limited to:
 - Lease or mortgage showing that you and your spouse live together
 - Documents that prove that you and your spouse own property together
 - Birth certificates of children born of the marriage
 - Financial records, such as joint checking or savings account statements, brokerage account, investment and retirement accounts
 - Insurance information, such as health, life and automobile
 - Joint accounts, such as credit cards and club memberships
 - Family photos, letters and cards, documentation of vacations and travel
- Criminal history records, if you have ever been detained, arrested, charged or convicted by any law enforcement agency or court of law
- If filing for a **Waiver** of the Joint Filing requirement (as applicable):
 - Final Divorce decree showing the official dissolution of the marriage
 - Death certificate of spouse

Fong•Ilagan, LLP works with clients to simplify the removal of conditions process. To discuss your case with a board-certified experienced attorney, please contact our office at 713.772.2300.