Executive Office for Immigration Review, Justice

§ 1235.11

(b) Surrender and voidance—(1) Institution of proceeding under section 240 or 342 of the Act. A U.S. Citizen Identification Card must be surrendered provisionally to a Service office upon notification by the district director that a proceeding under section 240 or 342 of the Act is being instituted against the person to whom the card was issued. The card shall be returned to the person if the final order in the proceeding does not result in voiding the card under this paragraph. A U.S. Citizen Identification Card is automatically void if the person to whom it was issued is determined to be an alien in a proceeding conducted under section 240 of the Act, or if a certificate, document, or record relating to that person is canceled under section 342 of the Act.

(2) Investigation of validity of identification card. A U.S. Citizen Identification Card must be surrendered provisionally upon notification by a district director that the validity of the card is being investigated. The card shall be returned to the person who surrendered it if the investigation does not result in a determination adverse to his or her claim to be a United States citizen. When an investigation results in a tentative determination adverse to the applicant’s claim to be a United States citizen, the applicant shall be notified by certified mail directed to his or her last known address. The notification shall inform the applicant of the basis for the determination and of the intention of the district director to declare the card void unless within 30 days the applicant objects and demands an opportunity to see and rebut the adverse evidence. Any rebuttal, explanation, or evidence presented by the applicant must be included in the record of proceeding. The determination whether the applicant is a United States citizen must be based on the entire record and the applicant shall be notified of the reasons, and the card deemed void. There is no appeal from the district director’s decision.

(3) Admission of alienage. A U.S. Citizen Identification Card is void if the person to whom it was issued admits in a statement signed before an immigration officer that he or she is an alien and consents to the voidance of the card. Upon signing the statement the card must be surrendered to the immigration officer.

(4) Surrender of void card. A void U.S. Citizen Identification Card which has not been returned to the Service must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(c) U.S. Citizen Identification Card previously issued on Form I–179. A valid Form I–179, U.S. Citizen Identification Card, continues to be valid subject to the provisions of this section.


§ 1235.11 Admission of conditional permanent residents.

(a) General—(1) Conditional residence based on family relationship. An alien seeking admission to the United States with an immigrant visa as the spouse or son or daughter of a United States citizen or lawful permanent resident shall be examined to determine whether the conditions of section 216 of the Act apply. If so, the alien shall be admitted conditionally for a period of 2 years. At the time of admission, the alien shall be notified that the alien and his or her petitioning spouse must file a Form I–751, Petition to Remove the Conditions on Residence, within the 90-day period immediately preceding the second anniversary of the alien’s admission for permanent residence.

(2) Conditional residence based on entrepreneurship. An alien seeking admission to the United States with an immigrant visa as an alien entrepreneur (as defined in section 216A(f)(1) of the Act) or the spouse or unmarried minor child of an alien entrepreneur shall be admitted conditionally for a period of 2 years. At the time of admission, the alien shall be notified that the principal alien (entrepreneur) must file a Form I–829, Petition by Entrepreneur to Remove Conditions, within the 90-day period immediately preceding the second anniversary of the alien’s admission for permanent residence.

(b) Correction of endorsement on immigrant visa. If the alien is subject to the
provisions of section 216 of the Act, but
the classification endorsed on the im-
migrant visa does not so indicate, the
endorsement shall be corrected and the
alien shall be admitted as a lawful per-
manent resident on a conditional basis,
if otherwise admissible. Conversely, if
the alien is not subject to the provi-
sions of section 216 of the Act, but the
visa classification endorsed on the im-
migrant visa indicates that the alien is
subject thereto (e.g., if the second an-
iversary of the marriage upon which
the immigrant visa is based occurred
after the issuance of the visa and prior
to the alien’s application for admis-
sion), the endorsement on the visa shall
be corrected and the alien shall be ad-
mitted as a lawful permanent resident
without conditions, if otherwise admis-
sible.

(c) Expired conditional permanent resi-
dent status. The lawful permanent resi-
dent alien status of a conditional resi-
dent automatically terminates if the
conditional basis of such status is not
removed by the Service through ap-
proval of a Form I–751, Petition to Re-
move the Conditions on Residence or,
in the case of an alien entrepreneur (as
defined in section 216A(f)(1) of the Act),
Form I–829, Petition by Entrepreneur
to Remove Conditions. Therefore, an
alien who is seeking admission as a re-
turning resident subsequent to the sec-
ond anniversary of the date on which
conditional residence was obtained (ex-
cept as provided in §1211.1(b)(1) of this
chapter) and whose conditional basis of
such residence has not been removed
pursuant to section 216(c) or 216A(c) of
the Act, whichever is applicable, shall
be placed under removal proceedings.
However, in a case where conditional
residence was based on a marriage, re-
moval proceedings may be terminated
and the alien may be admitted as a re-
turning resident if the required Form
I–751 is filed jointly, or by the alien
alone (if appropriate), and approved by
the Service. In the case of an alien en-
trepreneur, removal proceedings may
terminated and the alien admitted as
a returning resident if the required
Form I–829 is filed by the alien entre-
trepreneur and approved by the Service.