

Union Calendar No. 487

107TH CONGRESS
2D SESSION

H. R. 1452

[Report No. 107-785]

To amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. FRANK (for himself, Mr. FROST, Mr. DIAZ-BALART, Mr. MCGOVERN, Mr. KENNEDY of Rhode Island, Ms. JACKSON-LEE of Texas, Mr. BALDACC, Mr. CAPUANO, Mr. DELAHUNT, Mr. FILNER, Mr. McDERMOTT, Mrs. MINK of Hawaii, Mr. RANGEL, Mr. RODRIGUEZ, Ms. SCHAKOWSKY, Mr. GEORGE MILLER of California, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on the Judiciary

NOVEMBER 14, 2002

Additional sponsors: Ms. LEE, Mr. STARK, Mr. ABERCROMBIE, Mr. GUTIERREZ, Mrs. MALONEY of New York, Mr. LaFALCE, Ms. LOFGREN, Mr. SHAYS, Mr. BONIOR, Ms. VELÁZQUEZ, Mrs. JONES of Ohio, Mr. OLVER, Mr. ANDREWS, Mr. OWENS, Mr. BERMAN, Mr. CONYERS, Mr. OSE, Mr. MEEHAN, Mr. BENTSEN, Ms. CARSON of Indiana, Ms. ROSELEHTINEN, Mr. LANTOS, Ms. MCKINNEY, Ms. SOLIS, Mr. NADLER, Mr. HONDA, Ms. WATSON, Mr. GONZALEZ, Ms. ROYBAL-ALLARD, Mr. DOOLEY of California, Mr. BROWN of Ohio, Ms. BALDWIN, Mr. SERRANO, Mr. FARR of California, Mr. TIERNEY, Mr. PALLONE, Ms. MILLENDER-McDONALD, Mr. CLAY, Mr. MARKEY, and Ms. PELOSI

NOVEMBER 14, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 4, 2001]

A BILL

To amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such 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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Family Reunification*
5 *Act of 2002”.*

6 **SEC. 2. CANCELLATION OF REMOVAL FOR LONG-TERM PER-**
7 **MANENT RESIDENT ALIENS.**

8 *Section 240A(a) of the Immigration and Nationality*
9 *Act (8 U.S.C. 1229b(a)) is amended to read as follows:*

10 *“(a) CANCELLATION OF REMOVAL FOR CERTAIN PER-*
11 *MANENT RESIDENTS.—*

12 *“(1) PERMANENT RESIDENTS NOT CONVICTED OF*
13 *ANY AGGRAVATED FELONY.—The Attorney General*
14 *may cancel removal in the case of an alien who is in-*
15 *admissible to, or deportable from, the United States,*
16 *if the alien—*

1 “(A) has been an alien lawfully admitted
2 for permanent residence for not less than 5
3 years;

4 “(B) resided in the United States continu-
5 ously for 7 years after having been admitted in
6 any status; and

7 “(C) has not been convicted of any aggra-
8 vated felony.

9 “(2) *PERMANENT RESIDENTS CONVICTED OF A*
10 *NONVIOLENT AGGRAVATED FELONY.—The Attorney*
11 *General may cancel removal in the case of an alien*
12 *who is inadmissible to, or deportable from, the United*
13 *States, if the alien—*

14 “(A) has been an alien lawfully admitted
15 for permanent residence for not less than 5
16 years;

17 “(B) satisfies the residence requirements of
18 paragraph (6);

19 “(C) has never been convicted of—

20 “(i) an act of murder, rape, or sexual
21 abuse of a minor;

22 “(ii) any crime of violence (as defined
23 in section 16 of title 18, United States
24 Code); or

1 “(iii) an attempt or conspiracy to
2 commit an offense described in clause (i) or
3 (ii);

4 “(D) has been convicted of—

5 “(i) a single aggravated felony for
6 which the alien was sentenced to serve a
7 term of imprisonment of 4 years or less;

8 “(ii) multiple aggravated felonies aris-
9 ing out of a single scheme of criminal mis-
10 conduct for which the alien was sentenced to
11 serve, in the aggregate, a term of imprison-
12 ment of 4 years or less; or

13 “(iii) 2 aggravated felonies arising out
14 of separate schemes of criminal misconduct
15 for which the alien was sentenced to serve,
16 in the aggregate, a term of imprisonment of
17 4 years or less, but for neither of which the
18 alien was actually incarcerated;

19 “(E) was not, in the commission of the ag-
20 gravated felony or felonies described in subpara-
21 graph (D)—

22 “(i) an organizer, leader, manager, or
23 supervisor of others; or

24 “(ii) engaged in a continuing criminal
25 enterprise (as defined in section 408(c) of

1 *the Controlled Substances Act (21 U.S.C.*
2 *848(c))*);

3 *“(F) has never been incarcerated for any of-*
4 *fense except—*

5 *“(i) the offense described in clause (i)*
6 *of subparagraph (D), or another offense that*
7 *was committed in the course of the same*
8 *scheme of criminal misconduct; or*

9 *“(ii) an offense that was committed in*
10 *the course of the scheme or schemes de-*
11 *scribed in clause (ii) or (iii) of such sub-*
12 *paragraph; and*

13 *“(G) has not been the subject of a timely*
14 *certification described in paragraph (7) with re-*
15 *spect to the aggravated felony or felonies de-*
16 *scribed in subparagraph (D), unless such certifi-*
17 *cation has been revoked pursuant to such para-*
18 *graph.*

19 *“(3) PERMANENT RESIDENTS CONVICTED OF AN*
20 *AGGRAVATED FELONY CLASSIFIED AS A CRIME OF VIO-*
21 *LENCE.—The Attorney General may cancel removal*
22 *in the case of an alien who is inadmissible to, or de-*
23 *portable from, the United States, if the alien—*

1 “(A) has been an alien lawfully admitted
2 for permanent residence for not less than 5
3 years;

4 “(B) satisfies the residence requirements of
5 paragraph (6);

6 “(C) has never been convicted of—

7 “(i) an act of murder, rape, or sexual
8 abuse of a minor; or

9 “(ii) an attempt or conspiracy to com-
10 mit an offense described in clause (i);

11 “(D) has never been convicted of any aggra-
12 vated felony that resulted in death or serious
13 bodily injury to any person other than the alien;

14 “(E) has been convicted of—

15 “(i) a single aggravated felony for
16 which the alien was sentenced to serve a
17 term of imprisonment of 2 years or less;

18 “(ii) multiple aggravated felonies aris-
19 ing out of a single scheme of criminal mis-
20 conduct for which the alien was sentenced to
21 serve, in the aggregate, a term of imprison-
22 ment of 2 years or less; or

23 “(iii) 2 aggravated felonies arising out
24 of separate schemes of criminal misconduct
25 for which the alien was sentenced to serve,

1 *in the aggregate, a term of imprisonment of*
2 *2 years or less, but for neither of which the*
3 *alien was actually incarcerated;*

4 “(F) *was not, in the commission of the ag-*
5 *gravated felony or felonies described in subpara-*
6 *graph (E)—*

7 “(i) *an organizer, leader, manager, or*
8 *supervisor of others; or*

9 “(ii) *engaged in a continuing criminal*
10 *enterprise (as defined in section 408(c) of*
11 *the Controlled Substances Act (21 U.S.C.*
12 *848(c))*);

13 “(G) *has never been incarcerated for any of-*
14 *fense except—*

15 “(i) *the offense described in clause (i)*
16 *of subparagraph (E), or another offense that*
17 *was committed in the course of the same*
18 *scheme of criminal misconduct; or*

19 “(ii) *an offense that was committed in*
20 *the course of the scheme or schemes de-*
21 *scribed in clause (ii) or (iii) of such sub-*
22 *paragraph; and*

23 “(H) *has not been the subject of a timely*
24 *certification described in paragraph (7) with re-*
25 *spect to the aggravated felony or felonies de-*

scribed in subparagraph (E), unless such certification has been revoked pursuant to such paragraph.

“(4) *PERMANENT RESIDENTS ADMITTED BEFORE AGE 10.*—The Attorney General may cancel removal in the case of an alien who is inadmissible to, or deportable from, the United States, if the alien—

“(A) has been an alien lawfully admitted for permanent residence for not less than 5 years;

“(B) resided in the United States continuously for 7 years after having been admitted in any status when the alien was under 10 years of age;

“(C) has never been convicted of—

“(i) an act of murder, rape, or sexual abuse of a minor; or

“(ii) an attempt or conspiracy to commit an offense described in clause (i); and

“(D) has never been incarcerated for a third (or succeeding) aggravated felony, except that multiple felonies arising out of a single scheme of criminal misconduct shall be considered a single felony for purposes of this subparagraph.

1 “(5) *PERMANENT RESIDENTS ADMITTED BEFORE*
2 *AGE 16.—The Attorney General may cancel removal*
3 *in the case of an alien who is inadmissible to, or de-*
4 *portable from, the United States, if the alien—*

5 “(A) *has been an alien lawfully admitted*
6 *for permanent residence for not less than 5*
7 *years;*

8 “(B) *resided in the United States continu-*
9 *ously for 7 years—*

10 “(i) *before the alien committed any ag-*
11 *gravated felony; and*

12 “(ii) *after having been admitted in*
13 *any status when the alien was under 16*
14 *years of age;*

15 “(C) *has never been convicted of—*

16 “(i) *an act of murder, rape, or sexual*
17 *abuse of a minor; or*

18 “(ii) *an attempt or conspiracy to com-*
19 *mit an offense described in clause (i); and*

20 “(D) *has never been incarcerated for a third*
21 *(or succeeding) aggravated felony, except that*
22 *multiple felonies arising out of a single scheme*
23 *of criminal misconduct shall be considered a sin-*
24 *gle felony for purposes of this subparagraph.*

1 “(6) *RESIDENCE REQUIREMENTS FOR CERTAIN*
2 *ALIENS.—In the case of an alien seeking relief under*
3 *paragraph (2) or (3), the residence requirements de-*
4 *scribed in this paragraph are as follows:*

5 “(A) *If the alien has been convicted of any*
6 *aggravated felony committed after the date of the*
7 *enactment of the Family Reunification Act of*
8 *2002, the alien is required to have resided in the*
9 *United States—*

10 “(i) *continuously for 7 years after hav-*
11 *ing been admitted in any status and prior*
12 *to the commission of such aggravated felony;*
13 *or*

14 “(ii) *continuously for 10 years after*
15 *having been admitted in any status, except*
16 *that, if the alien is incarcerated with re-*
17 *spect to such aggravated felony, the period*
18 *beginning on the date on which such aggra-*
19 *vated felony was committed and ending on*
20 *the last day of such term of incarceration*
21 *shall be excluded in determining continuous*
22 *residence under this clause.*

23 “(B) *If the alien has not been convicted of*
24 *an aggravated felony committed after the date of*
25 *the enactment of the Family Reunification Act of*

1 2002, but has otherwise been incarcerated for
2 any aggravated felony, the alien is required to
3 have resided in the United States—

4 “(i) continuously for 7 years after hav-
5 ing been admitted in any status and prior
6 to the commencement of such term of incar-
7 ceration; or

8 “(ii) continuously for 10 years after
9 having been admitted in any status, except
10 that any term of incarceration for any ag-
11 gravated felony shall be excluded in deter-
12 mining continuous residence under this
13 clause.

14 “(C) If the alien is not described in sub-
15 paragraph (A) or (B), the alien is required to
16 have resided in the United States continuously
17 for 7 years after having been admitted in any
18 status.

19 “(7) CERTIFICATIONS.—

20 “(A) IN GENERAL.—In the case of an alien
21 seeking relief under paragraph (2) or (3), not
22 later than 2 weeks after the alien files an appli-
23 cation for such relief, the Attorney General may
24 notify each agency that prosecuted an aggravated

1 *felony referred to in paragraph (2)(D) or (3)(E),*
2 *as the case may be.*

3 “(B) CONTENTS.—*The notification shall in-*
4 *form the agency that it has an opportunity—*

5 “(i) *to certify to the Attorney General,*
6 *not later than 60 days after the date on*
7 *which the notification is mailed, that the*
8 *alien has not truthfully provided to the*
9 *agency all information and evidence the*
10 *alien has concerning such felony or felonies,*
11 *and any other offense or offenses that were*
12 *part of the same scheme of criminal mis-*
13 *conduct as such felony or felonies; and*

14 “(ii) *on those grounds, to object to can-*
15 *cellation of removal.*

16 “(C) PROVISION TO ALIEN.—*The Attorney*
17 *General shall mail any certification timely made*
18 *pursuant to subparagraph (B) with respect to an*
19 *alien to such alien. The alien shall have an op-*
20 *portunity, during the 21-day period beginning*
21 *on the date on which the certification is mailed,*
22 *to truthfully provide to the agency all informa-*
23 *tion and evidence which the agency certifies has*
24 *not been provided.*

25 “(D) REVOCATION OF CERTIFICATION.—

1 “(i) *IN GENERAL.*—*The agency may,*
2 *during the 21-day period beginning after*
3 *the end of the period described in subpara-*
4 *graph (C), revoke any certification made*
5 *pursuant to subparagraph (B). Any revoca-*
6 *tion of a certification shall void such certifi-*
7 *cation.*

8 “(ii) *UNTIMELY REVOCATIONS.*—*A rev-*
9 *ocation under this subparagraph that is not*
10 *timely made may be considered by the At-*
11 *torney General in the Attorney General’s*
12 *discretion if it is made prior to the issuance*
13 *of a final order of removal, but the absence*
14 *of a timely revocation shall not be the basis*
15 *for any continuance or delay of proceedings.*
16 *Any determination to deny relief based in*
17 *whole or in part on a revocation that is not*
18 *made, or not timely made, shall not be sub-*
19 *ject to administrative or judicial review in*
20 *any forum.*

21 “(E) *FORMS REQUIREMENT.*—*The Attorney*
22 *General shall ensure that the consequences under*
23 *this paragraph of failing to provide information*
24 *or evidence with respect to aggravated felonies*
25 *are clearly explained in any form promulgated*

1 *by the Attorney General that may be used to*
2 *apply for relief under paragraph (2) or (3).*

3 “(F) *CONSTRUCTION.*—*This paragraph, and*
4 *paragraphs (2) and (3), shall not be construed to*
5 *require the Attorney General to notify any agen-*
6 *cy under subparagraph (A). If the Attorney Gen-*
7 *eral fails to send, or fails timely to send, the no-*
8 *tification described in such subparagraph, the*
9 *alien shall be deemed not to be the subject of a*
10 *certification.*

11 “(8) *CLARIFICATION WITH RESPECT TO CERTAIN*
12 *REFERENCES.*—*Any reference in this subsection to a*
13 *term of imprisonment or a sentence with respect to an*
14 *offense is deemed to include the period of incarcer-*
15 *ation or confinement ordered by a court of law, re-*
16 *gardless of any suspension of the imposition or execu-*
17 *tion of that imprisonment or sentence in whole or in*
18 *part. However, a period of probation is not a term*
19 *of imprisonment or a sentence for purposes of this*
20 *subsection.*

21 “(9) *LIMITATION ON DELEGATION.*—*Cancellation*
22 *of removal under paragraph (2), (3), (4), or (5) may*
23 *be granted only by the Attorney General or Deputy*
24 *Attorney General. No delegation of such authority to*
25 *any other official may be made.”.*

1 **SEC. 3. CHANGE IN CONDITIONS FOR TERMINATION OF PE-**
 2 **RIOD OF CONTINUOUS RESIDENCE OR CON-**
 3 **TINUOUS PHYSICAL PRESENCE.**

4 *Section 240A(d)(1) of the Immigration and Nation-*
 5 *ality Act (8 U.S.C. 1229b(d)(1)) is amended to read as fol-*
 6 *lows:*

7 “(1) *TERMINATION OF CONTINUOUS PERIOD.—*
 8 *For purposes of this section, any period of continuous*
 9 *residence or continuous physical presence in the*
 10 *United States shall be deemed to end, except in the*
 11 *case of an alien who applies for cancellation of re-*
 12 *moval under subsection (b)(2), when the alien is*
 13 *served a notice to appear under section 239(a).”.*

14 **SEC. 4. PERMITTING CERTAIN PERMANENT RESIDENT**
 15 **ALIENS TO RETURN WITHOUT SEEKING AD-**
 16 **MISSION.**

17 *Section 101(a)(13)(C) of the Immigration and Nation-*
 18 *ality Act (8 U.S.C. 1101(a)(13)(C)) is amended—*

19 *(1) by striking the comma at the end of each of*
 20 *clauses (i), (ii), (iii), and (iv) and inserting a semi-*
 21 *colon at the end of each such clause;*

22 *(2) by amending clause (v) to read as follows:*

23 “(v) *has committed outside the United States an*
 24 *offense identified in section 212(a)(2), unless, since*
 25 *such offense, the alien has been granted relief under*
 26 *section 212(h) or 240A(a), or under section 212(c)*

(before its repeal by section 304(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–597));”;

(3) by redesignating clause (vi) as clause (vii);
and

(4) by inserting after clause (v) the following:

“(vi) has committed in the United States an offense identified in section 212(a)(2), and has been absent from the United States for a continuous period in excess of 30 days since committing such offense (or, if the absence after the 30th day was beyond the alien’s control, for a continuous period in excess of 60 days), unless, since such offense, the alien has been granted relief under section 212(h) or 240A(a), or under section 212(c) (before its repeal by section 304(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–597)); or”.

SEC. 5. RELEASE OF NONDANGEROUS ALIENS.

(a) *IN GENERAL*.—Section 236(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(2)) is amended to read as follows:

“(2) *RELEASE*.—

“(A) *IN GENERAL*.—The Attorney General may release an alien described in paragraph (1)

1 *only in accordance with subparagraph (B) or*
2 *(C). A decision relating to release under this*
3 *paragraph shall take place in accordance with a*
4 *procedure that considers the severity of any of-*
5 *fense committed by the alien.*

6 “(B) *PROTECTION FOR WITNESSES, POTEN-*
7 *TIAL WITNESSES, AND PERSONS COOPERATING*
8 *WITH CRIMINAL INVESTIGATIONS.—The Attorney*
9 *General may release an alien described in para-*
10 *graph (1) if—*

11 “(i) *the Attorney General decides pur-*
12 *suant to section 3521 of title 18, United*
13 *States Code, that release of the alien from*
14 *custody is necessary to provide protection to*
15 *a witness, a potential witness, a person co-*
16 *operating with an investigation into major*
17 *criminal activity, or an immediate family*
18 *member or close associate of a witness, po-*
19 *tential witness, or person cooperating with*
20 *such an investigation; and*

21 “(ii) *the alien satisfies the Attorney*
22 *General that the alien will not pose a dan-*
23 *ger to the national security of the United*
24 *States or the safety of persons or property*

1 *and is likely to appear for any scheduled*
 2 *proceeding.*

3 “(C) *PERMANENT RESIDENT ALIENS ELIGI-*
 4 *BLE FOR CANCELLATION OF REMOVAL.—The At-*
 5 *torney General may release an alien described in*
 6 *paragraph (1) if the alien demonstrates, by a*
 7 *preponderance of the evidence, that the alien—*

8 *“(i) has prima facie evidence sufficient*
 9 *to establish that the alien is eligible for can-*
 10 *cellation of removal under section 240A(a);*
 11 *and*

12 *“(ii) will not pose a danger to the na-*
 13 *tional security of the United States or the*
 14 *safety of persons or property and is likely*
 15 *to appear for any scheduled proceeding.”.*

16 **(b) APPLICATION TO ALIENS DETAINED ON EFFECTIVE**
 17 *DATE.—In the case of an alien detained under section*
 18 *241(a)(2) of the Immigration and Nationality Act (8*
 19 *U.S.C. 1231(a)(2)) on the date of the enactment of this Act,*
 20 *if the alien has prima facie evidence sufficient to establish*
 21 *that the alien is eligible for cancellation of removal under*
 22 *section 240A(a) of such Act (8 U.S.C. 1229b(a)), as amend-*
 23 *ed by section 2 of this Act (and subject to the other amend-*
 24 *ments made by this Act), the alien may seek release from*

1 *detention under section 236(c)(2)(C) of such Act (8 U.S.C.*
 2 *1226(c)(2)(C)), as added by this section.*

3 **SEC. 6. CLARIFICATION OF EFFECT OF VACATION OF CON-**
 4 **VICTION.**

5 *Section 101(a)(48) of the Immigration and Nation-*
 6 *ality Act (8 U.S.C. 1101(a)(48)) is amended by adding at*
 7 *the end the following:*

8 *“(C) Any conviction entered by a court that otherwise*
 9 *would be considered a conviction under this paragraph*
 10 *shall continue to be so considered notwithstanding a vaca-*
 11 *tion of that conviction, unless the conviction is vacated—*

12 *“(i) on the merits; or*

13 *“(ii) on grounds relating to a violation of a stat-*
 14 *utory or constitutional right in the underlying crimi-*
 15 *nal proceeding.”.*

16 **SEC. 7. EFFECTIVE DATE; SPECIAL APPLICABILITY RULE.**

17 *(a) IN GENERAL.—The amendments made by this Act*
 18 *shall take effect on the date of the enactment of this Act*
 19 *and shall apply to aliens who—*

20 *(1) are in removal proceedings under the Immi-*
 21 *gration and Nationality Act (8 U.S.C. 1101 et seq.)*
 22 *on or after such date;*

23 *(2) were in such proceedings before such date,*
 24 *were ineligible for cancellation of removal under sec-*
 25 *tion 240A(a) of such Act (8 U.S.C. 1229b(a)) before*

1 *such date, but would have been eligible for cancella-*
2 *tion of removal under such section if the amendments*
3 *made by this Act had been in effect during the entire*
4 *pendency of such proceedings; or*

5 *(3) were in exclusion or deportation proceedings*
6 *under such Act before such date, and were ineligible*
7 *for relief under section 212(c) of such Act (as in effect*
8 *on March 31, 1997, before its repeal by section 304(b)*
9 *of the Illegal Immigration Reform and Immigrant*
10 *Responsibility Act of 1996 (110 Stat. 3009–597)) by*
11 *reason of the amendments made by section 440(d) of*
12 *the Antiterrorism and Effective Death Penalty Act of*
13 *1996 (Public Law 104–132; 110 Stat. 1277).*

14 *(b) SPECIAL APPLICABILITY RULE.—*

15 *(1) IN GENERAL.—Notwithstanding any other*
16 *provision of law, aliens described in subsection (a)(3)*
17 *shall be considered to be, or to have been, in removal*
18 *proceedings under the Immigration and Nationality*
19 *Act (8 U.S.C. 1101 et seq.) to the extent necessary to*
20 *permit them to apply, and be considered eligible, for*
21 *cancellation of removal under section 240A(a) of such*
22 *Act (8 U.S.C. 1229b(a)), as amended by this Act.*

23 *(2) RELIEF.—If the Attorney General determines*
24 *that an alien described in subsection (a)(3) should be*
25 *provided relief pursuant to this Act, the Attorney*

1 *General shall take such steps as may be necessary to*
 2 *terminate any proceedings to exclude or deport the*
 3 *alien that may be pending, and shall grant or restore*
 4 *to the alien the status of an alien lawfully admitted*
 5 *to the United States for permanent residence.*

6 **SEC. 8. MOTIONS TO REOPEN.**

7 *(a) IN GENERAL.—Not later than 1 year after the ef-*
 8 *fective date of the final regulations issued under section 9(b)*
 9 *of this Act, and in accordance with such regulations, an*
 10 *alien described in subsection (b) may file a motion to re-*
 11 *open removal, deportation, or exclusion proceedings in*
 12 *order to apply for cancellation of removal under section*
 13 *240A(a) of the Immigration and Nationality Act (8 U.S.C.*
 14 *1229b(a)) pursuant to the amendments made by this Act.*

15 *(b) ALIENS DESCRIBED.—An alien is described in this*
 16 *subsection if the alien—*

17 *(1) is described in subsection (a) of section 7;*
 18 *and*

19 *(2) is otherwise unable to apply, or reapply, for*
 20 *cancellation of removal under section 240A(a) of the*
 21 *Immigration and Nationality Act (8 U.S.C.*
 22 *1229b(a)) by reason of the procedural posture of the*
 23 *exclusion, deportation, or removal proceedings that*
 24 *are, or were, pending against the alien (including the*
 25 *fact that such proceedings are finally concluded).*

1 (c) *EVIDENCE*.—A motion filed under subsection (a)
 2 shall describe or set forth prima facie evidence sufficient
 3 to establish that the alien is eligible for cancellation of re-
 4 moval under section 240A(a) of the Immigration and Na-
 5 tionality Act (8 U.S.C. 1229b(a)), as amended by this Act.

6 (d) *NO REENTRY OR READMISSION TO FILE OR PROS-*
 7 *ECUTE MOTION*.—No alien may be admitted or otherwise
 8 authorized to enter the United States solely to file or pros-
 9 ecute a motion to reopen under this section or otherwise
 10 to apply for relief under this Act or the amendments made
 11 by this Act, except as the Attorney General may provide
 12 pursuant to the sole and unreviewable discretion of the At-
 13 torney General. Hearings held pursuant to this Act and the
 14 amendments made by this Act may be held in the United
 15 States or abroad, with the alien appearing in person or
 16 by video phone or similar device.

17 (e) *DISCRETION*.—The grant or denial of any motion
 18 to reopen filed under this section shall be in the sole and
 19 unreviewable discretion of the Attorney General.

20 (f) *NO JUDICIAL REVIEW*.—No court shall have juris-
 21 diction to review any decision of the Attorney General deny-
 22 ing a motion to reopen under this section.

23 **SEC. 9. RULES.**

24 (a) *ISSUANCE OF ADVANCE NOTICE OF PROPOSED*
 25 *RULEMAKING*.—The Attorney General shall issue an ad-

1 vance notice of proposed rulemaking pertaining to this Act,
2 and the amendments made by this Act, not later than 60
3 days after the date of the enactment of this Act.

4 (b) *ISSUANCE OF FINAL REGULATIONS.*—The Attorney
5 General shall issue the final regulations to carry out this
6 Act not later than 90 days after the date of the enactment
7 of this Act, specifying an effective date that is not more
8 than 15 days after the date of publication of such final regu-
9 lations.

10 **SEC. 10. SUNSET.**

11 This Act, and the amendments made by this Act, shall
12 cease to have effect on December 31, 2005, or 3 years after
13 the date on which final regulations to carry out this Act
14 are issued, whichever occurs later.

15 **SEC. 11. ANNUAL REPORT.**

16 The Attorney General annually shall submit to the
17 Committee on the Judiciary of the United States House of
18 Representatives and the Committee on the Judiciary of the
19 Senate a report with respect to this Act and the amend-
20 ments made by this Act. The report shall contain informa-
21 tion on—

22 (1) the number of aliens who applied for can-
23 cellation of removal, release from detention, or any
24 other immigration benefit, based on this Act or the
25 amendments made by this Act;

- 1 (2) *the crimes committed by the aliens described*
- 2 *in paragraph (1);*
- 3 (3) *the number of applications described in*
- 4 *paragraph (1) that were granted; and*
- 5 (4) *any other subject the Attorney General con-*
- 6 *siders relevant.*

Union Calendar No. 487

107TH CONGRESS
2^D SESSION

H. R. 1452

[Report No. 107-785]

A BILL

To amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, and for other purposes.

NOVEMBER 14, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed