

107TH CONGRESS
2D SESSION

H. R. 4037

To amend the Nicaraguan Adjustment and Central American Relief Act to identify and register certain Central Americans residing in the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2002

Mr. TOM DAVIS of Virginia (for himself, Mr. BERMAN, Mr. CANNON, Mr. MORAN of Virginia, Mr. DIAZ-BALART, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Nicaraguan Adjustment and Central American Relief Act to identify and register certain Central Americans residing 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 “Central American Se-
5 curity Act”.

1 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS**
2 **FROM EL SALVADOR, GUATEMALA, AND HON-**
3 **DURAS.**

4 Section 202 of the Nicaraguan Adjustment and Cen-
5 tral American Relief Act (8 U.S.C. 1255 note) is
6 amended—

7 (1) in the section heading, by striking “NICA-
8 RAGUANS AND CUBANS” and inserting “NICA-
9 RAGUANS, CUBANS, SALVADORANS, GUATEMALANS,
10 AND HONDURANS”;

11 (2) in subsection (a)(1)(A), by striking “April
12 1, 2000” and inserting “two years after the promul-
13 gation of a final rule implementing the Central
14 American Security Act”;

15 (3) in subsection (b)(1), by striking “Nicaragua
16 or Cuba” and inserting “Nicaragua, Cuba, El Sal-
17 vador, Guatemala, or Honduras”; and

18 (4) in subsection (d)(1)(E), by striking “April
19 1, 2000” and inserting “two years after the promul-
20 gation of a final rule implementing the Central
21 American Security Act”.

1 **SEC. 3. APPLICATIONS PENDING UNDER AMENDMENTS**
2 **MADE BY SECTION 203 OF THE NICARAGUAN**
3 **ADJUSTMENT AND CENTRAL AMERICAN RE-**
4 **LIEF ACT.**

5 An application for relief properly filed by a national
6 of Guatemala or El Salvador under the amendments made
7 by section 203 of the Nicaraguan Adjustment and Central
8 American Relief Act which was filed on or before the date
9 of the enactment of this Act, and on which a final adminis-
10 trative determination has not been made, shall, at the elec-
11 tion of the applicant, be considered to be an application
12 for adjustment of status under the provisions of section
13 202 of the Nicaraguan Adjustment and Central American
14 Relief Act, as amended by this Act, upon the payment of
15 any fees, and in accordance with procedures, that the At-
16 torney General shall prescribe by regulation. The Attorney
17 General may not refund any fees paid in connection with
18 an application filed by a national of Guatemala or El Sal-
19 vador under the amendments made by section 203 of that
20 Act.

21 **SEC. 4. TECHNICAL AMENDMENTS TO THE NICARAGUAN**
22 **ADJUSTMENT AND CENTRAL AMERICAN RE-**
23 **LIEF ACT.**

24 (a) IN GENERAL.—Section 202 of the Nicaraguan
25 Adjustment and Central American Relief Act (8 U.S.C.
26 1255 note) is amended—

1 (1) in subsection (a)—

2 (A) by inserting before the period at the
3 end of paragraph (1)(B) the following: “, and
4 the Attorney General may waive the grounds of
5 inadmissibility specified in subparagraphs (A)(i)
6 and (6)(C) of section 212(a)(1) of such Act for
7 humanitarian purposes, to assure family unity,
8 or when it is otherwise in the public interest”;
9 and

10 (B) by amending paragraph (3) to read as
11 follows:

12 “(3) RELATIONSHIP OF APPLICATION TO CER-
13 TAIN ORDERS.—An alien present in the United
14 States who has been ordered excluded, deported, or
15 removed, or ordered to depart voluntarily from the
16 United States under any provision of the Immigra-
17 tion and Nationality Act may, notwithstanding such
18 order, apply for adjustment of status under para-
19 graph (1). Such an alien may not be required, as a
20 condition of submitting or granting such application,
21 to file a separate motion to reopen, reconsider, or
22 vacate such order. Such an alien may be required to
23 seek a stay of such an order in accordance with sub-
24 section (c) to prevent the execution of the order
25 pending the adjudication of the application for ad-

1 justment of status. If the Attorney General denies a
2 stay of a final order of exclusion, deportation, or re-
3 moval, or if the Attorney General renders a final ad-
4 ministrative determination to deny the application
5 for adjustment of status, the order shall be effective
6 and enforceable to the same extent as if the applica-
7 tion had not been made. If the Attorney General
8 grants the application for adjustment of status, the
9 Attorney General shall cancel the order.”;

10 (2) in subsection (b)(1), by adding at the end
11 the following: “Subsection (a) shall not apply to an
12 alien lawfully admitted for permanent residence, un-
13 less the alien is applying for relief under that sub-
14 section in deportation or removal proceedings.”;

15 (3) in subsection (c)(1), by adding at the end
16 the following: “Nothing in this section requires the
17 Attorney General to stay the removal of an alien
18 who is ineligible for adjustment of status under this
19 section.”;

20 (4) in subsection (d)—

21 (A) by amending the subsection heading to
22 read as follows:

23 “(d) SPOUSES, CHILDREN, AND UNMARRIED SONS
24 AND DAUGHTERS.—”;

1 (B) by amending the heading of paragraph
2 (1) to read as follows:

3 “(1) ADJUSTMENT OF STATUS.—”;

4 (C) by amending paragraph (1)(A) to read
5 as follows:

6 “(A) the alien entered the United States
7 on or before the date of the enactment of the
8 Central American Security Act;”;

9 (D) by amending paragraph (1)(B) to read
10 as follows:

11 “(B) the alien—

12 “(i) is the spouse, child, or unmarried
13 son or daughter of an alien whose status is
14 adjusted to that of an alien lawfully admit-
15 ted for permanent residence under sub-
16 section (a) or pursuant to the amendments
17 made by section 203, except that—

18 “(I) any determination of wheth-
19 er the alien satisfies the age require-
20 ment in the matter preceding sub-
21 paragraph (A) of section 101(b)(1)
22 shall be made using the age of the
23 alien on the date on which the prin-
24 cipal alien filed for adjustment under

1 subsection (a) or pursuant to the
2 amendments made by section 203;

3 “(II) in the case of such a
4 spouse, stepchild, or unmarried step-
5 son or stepdaughter, the spouse, step-
6 child, stepson, or stepdaughter shall
7 be required to establish that the quali-
8 fying marriage was entered into be-
9 fore the date of the enactment of the
10 Central American Security Act; and

11 “(III) in the case of such an un-
12 married son or daughter, the son or
13 daughter shall be required to establish
14 that the son or daughter has been
15 physically present in the United
16 States for a continuous period begin-
17 ning not later than December 1,
18 1995, and ending not earlier than the
19 date on which the application for ad-
20 justment under this subsection is
21 filed; or

22 “(ii) was, at the time at which a prin-
23 cipal alien filed for adjustment under sub-
24 section (a) or pursuant to the amendments
25 made by section 203, the spouse or child of

1 such principal alien, the status of such
2 principal alien is adjusted to that of an
3 alien lawfully admitted for permanent resi-
4 dence under subsection (a) or pursuant to
5 the amendments made by section 203, and
6 the spouse, child, or child of the spouse
7 has been battered or subjected to extreme
8 cruelty by such principal alien;” and

9 (E) by adding at the end the following new
10 paragraph:

11 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
12 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

13 “(A) IN GENERAL.—In accordance with
14 regulations to be promulgated by the Attorney
15 General and the Secretary of State, upon ap-
16 proval of an application for adjustment of sta-
17 tus to that of an alien lawfully admitted for
18 permanent residence under subsection (a) or
19 pursuant to the amendments made by section
20 203, an alien who is the spouse or child of the
21 alien being granted such status may be issued
22 a visa for admission to the United States as an
23 immigrant following to join the principal appli-
24 cant, if the spouse or child—

1 “(i) satisfies the requirements in
2 paragraphs (1)(B) and (1)(D); and

3 “(ii) applies for such a visa within a
4 time period to be established by such regu-
5 lations.

6 “(B) RETENTION OF FEES FOR PROC-
7 ESSING APPLICATIONS.—The Secretary of State
8 may retain fees to recover the cost of immi-
9 grant visa application processing and issuance
10 for certain spouses and children of aliens whose
11 applications for adjustment of status under sub-
12 section (a) have been approved. Such fees—

13 “(i) shall be deposited as an offsetting
14 collection to any Department of State ap-
15 propriation to recover the cost of such
16 processing and issuance; and

17 “(ii) shall be available until expended
18 for the same purposes of such appropria-
19 tion to support consular activities.”;

20 (5) in subsection (g), by inserting “, or an im-
21 migrant classification,” after “for permanent resi-
22 dence”; and

23 (6) by adding at the end the following new sub-
24 section:

1 “(i) STATUTORY CONSTRUCTION.—Nothing in this
2 section authorizes any alien to apply for admission to, be
3 admitted to, be paroled into, or otherwise lawfully return
4 to the United States, to apply for, or to pursue an applica-
5 tion for adjustment of status under this section without
6 the express authorization of the Attorney General.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 paragraphs (1)(B), (2), and (6) shall be effective as if in-
9 cluded in the enactment of the Nicaraguan Adjustment
10 and Central American Relief Act. The amendments made
11 by paragraphs (1)(A), (3), (4), and (5) shall take effect
12 on the date of the enactment of this Act.

13 **SEC. 5. SECURITY AND CRIMINAL BACKGROUND INVES-**
14 **TIGATIONS.**

15 Notwithstanding any other provision of law, no appli-
16 cant for relief under this Act, or the amendments made
17 by this Act, is eligible to receive a waiver from any security
18 or criminal background investigation required to process
19 an application under section 202 of the Nicaraguan Ad-
20 justment and Central American Relief Act (8 U.S.C. 1255
21 note). All applicants seeking relief under this Act, or the
22 amendments made by this Act, shall submit fingerprints
23 to the appropriate government agency in order to facilitate
24 such processing.

1 **SEC. 6. MOTIONS TO REOPEN.**

2 Notwithstanding any time and number limitations
3 imposed by law on motions to reopen, a national of Cuba
4 or Nicaragua who, on the date of the enactment of the
5 Act, has a final administrative denial of an application for
6 adjustment of status under the Nicaraguan Adjustment
7 and Central American Relief Act, and who is made eligible
8 for adjustment of status under that Act by the amend-
9 ments made by this Act, may file one motion to reopen
10 an exclusion, deportation, or removal proceeding to have
11 the application reconsidered. Any such motion shall be
12 filed within 180 days of the date of the enactment of this
13 Act. The scope of any proceeding reopened on this basis
14 shall be limited to a determination of the alien's eligibility
15 for adjustment of status under the Nicaraguan Adjust-
16 ment and Central American Relief Act.

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