

108TH CONGRESS  
1ST SESSION

# H. R. 1300

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2003

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

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## 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 amend-  
6 ed—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”; and18 (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 CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of the order 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:

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 INVESTIGATIONS.**

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.

