

108TH CONGRESS  
1ST SESSION

# H. R. 2843

To adjust the immigration status of certain Colombian and Peruvian nationals who are in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2003

Mr. LINCOLN DIAZ-BALART of Florida (for himself, Ms. ROS-LEHTINEN, Mr. MARIO DIAZ-BALART of Florida, Mr. NUNES, Mr. TOM DAVIS of Virginia, Mr. CROWLEY, Mr. BONILLA, Mr. WEXLER, Ms. CORRINE BROWN of Florida, Mr. SERRANO, Mr. MARKEY, Ms. WOOLSEY, Mr. TOWNS, Mr. FRANK of Massachusetts, Mr. DELAHUNT, Mr. DEUTSCH, Mr. RODRIGUEZ, Mr. MORAN of Virginia, Mr. MCGOVERN, Mr. FARR, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain Colombian and Peruvian nationals who are 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 “Andean Adjustment  
5 Act of 2003”.

1 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN COLOMBIAN**  
2 **AND PERUVIAN NATIONALS.**

3 (a) ADJUSTMENT OF STATUS.—

4 (1) IN GENERAL.—Notwithstanding section  
5 245(c) of the Immigration and Nationality Act, the  
6 status of any alien described in subsection (b) shall  
7 be adjusted by the Secretary of Homeland Security  
8 to that of an alien lawfully admitted for permanent  
9 residence, if the alien—

10 (A) applies for such adjustment not later  
11 than 2 years after the date of the enactment of  
12 this Act; and

13 (B) is otherwise eligible to receive an im-  
14 migrant visa and is otherwise admissible to the  
15 United States for permanent residence, except  
16 in determining such admissibility the grounds  
17 for inadmissibility specified in paragraphs (4),  
18 (5), (6)(A), and (7)(A) of section 212(a) of the  
19 Immigration and Nationality Act shall not  
20 apply.

21 (2) RELATIONSHIP OF APPLICATION TO CER-  
22 TAIN ORDERS.—An alien present in the United  
23 States who has been ordered excluded, deported, re-  
24 moved, or ordered to depart voluntarily, from the  
25 United States under any provision of the Immigra-  
26 tion and Nationality Act may, notwithstanding such

1 order, apply for adjustment of status under para-  
2 graph (1). Such an alien may not be required, as a  
3 condition on submitting or granting such applica-  
4 tion, to file a motion to reopen, reconsider, or vacate  
5 such order. If the Secretary of Homeland Security  
6 grants the application, the Secretary of Homeland  
7 Security shall cancel the order. If the Secretary of  
8 Homeland Security renders a final administrative  
9 decision to deny the application, the order shall be  
10 effective and enforceable to the same extent as if the  
11 application had not been made.

12 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
13 TUS.—The benefits provided by subsection (a) shall apply  
14 to any alien who is a national of Colombia or Peru who—

15 (1) was physically present in the United States  
16 on December 31, 1999; and

17 (2) is physically present in the United States on  
18 the date the application for adjustment of status  
19 under this Act is filed.

20 (c) STAY OF REMOVAL.—

21 (1) IN GENERAL.—The Secretary of Homeland  
22 Security shall provide by regulation for an alien sub-  
23 ject to a final order of deportation, removal, or ex-  
24 clusion to seek a stay of such order based on the fil-  
25 ing of an application under subsection (a).

1           (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
2 standing any provision of the Immigration and Na-  
3 tionality Act, the Secretary of Homeland Security  
4 shall not order any alien to be removed from the  
5 United States, if the alien is in exclusion, deporta-  
6 tion, or removal proceedings under any provision of  
7 such Act and raises as a defense to such an order  
8 the eligibility of the alien to apply for adjustment of  
9 status under subsection (a), except where the Sec-  
10 retary of Homeland Security has rendered a final  
11 administrative determination to deny the application.

12           (3) WORK AUTHORIZATION.—The Secretary of  
13 Homeland Security may authorize an alien who has  
14 applied for adjustment of status under subsection  
15 (a), and the spouse of the alien, to engage in em-  
16 ployment in the United States during the pendency  
17 of such application and may provide the alien and  
18 the alien’s spouse with an “employment authorized”  
19 endorsement or other appropriate document signi-  
20 fying authorization of employment, except that if  
21 such application is pending for a period exceeding  
22 180 days, and has not been denied, the Secretary of  
23 Homeland Security shall authorize such employment.

24           (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
25 CHILDREN.—

1           (1) IN GENERAL.—Notwithstanding section  
2           245(c) of the Immigration and Nationality Act, the  
3           status of an alien shall be adjusted by the Secretary  
4           of Homeland Security to that of an alien lawfully  
5           admitted for permanent residence, if the alien—

6                   (A) is the spouse, child, or unmarried son  
7                   or daughter, of an alien whose status is ad-  
8                   justed to that of an alien lawfully admitted for  
9                   permanent residence under subsection (a), ex-  
10                  cept that in the case of such an unmarried son  
11                  or daughter, the son or daughter shall be re-  
12                  quired to establish that they have been phys-  
13                  ically present in the United States for a contin-  
14                  uous period, beginning not later than December  
15                  31, 1999, and ending not earlier than the date  
16                  the application for adjustment under this sub-  
17                  section is filed;

18                  (B) applies for such adjustment not later  
19                  than 2 years after the date of the enactment of  
20                  this Act and is physically present in the United  
21                  States on the date the application is filed; and

22                  (C) is otherwise eligible to receive an immi-  
23                  grant visa and is otherwise admissible to the  
24                  United States for permanent residence, except  
25                  in determining such admissibility the grounds

1           for exclusion specified in paragraphs (4), (5),  
2           (6)(A), and (7)(A) of section 212(a) of the Im-  
3           migration and Nationality Act shall not apply.

4           (2) PROOF OF CONTINUOUS PRESENCE.—For  
5           purposes of establishing the period of continuous  
6           physical presence referred to in paragraph (1)(B),  
7           an alien shall not be considered to have failed to  
8           maintain continuous physical presence by reason of  
9           an absence, or absences, from the United States for  
10          any periods in the aggregate not exceeding 180  
11          days.

12          (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
13          The Secretary of Homeland Security shall provide to ap-  
14          plicants for adjustment of status under subsection (a) the  
15          same right to, and procedures for, administrative review  
16          as are provided to—

17                 (1) applicants for adjustment of status under  
18                 section 245 of the Immigration and Nationality Act;  
19                 or

20                 (2) aliens subject to removal proceedings under  
21                 section 240 of such Act.

22          (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
23          mination by the Secretary of Homeland Security as to  
24          whether the status of any alien should be adjusted under

1 this Act is final and shall not be subject to review by any  
2 court.

3 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

4 When an alien is granted the status of having been law-  
5 fully admitted for permanent residence pursuant to this  
6 Act, the Secretary of State shall not be required to reduce  
7 the number of immigrant visas authorized to be issued  
8 under any provision of the Immigration and Nationality  
9 Act.

10 (h) APPLICATION OF IMMIGRATION AND NATION-

11 ALITY ACT PROVISIONS.—Except as otherwise specifically

12 provided in this section, the definitions contained in the

13 Immigration and Nationality Act shall apply in the admin-

14 istration of this Act. Nothing contained in this Act shall

15 be held to repeal, amend, alter, modify, effect, or restrict

16 the powers, duties, functions, or authority of the Secretary

17 of Homeland Security in the administration and enforce-

18 ment of such Act or any other law relating to immigration,

19 nationality, or naturalization. The fact that an alien may

20 be eligible to be granted the status of having been lawfully

21 admitted for permanent residence under this section shall

22 not preclude the alien from seeking such status under any

23 other provision of law for which the alien may be eligible.

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