

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3364

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

JULY 20, 2005

Mr. TOM DAVIS of Virginia (for himself, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. MARIO DIAZ-BALART of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Ms. ROS-LEHTINEN, Mr. CANNON, Mr. MCGOVERN, Ms. SOLIS, Ms. LINDA T. SÁNCHEZ of California, Mr. MORAN of Virginia, and Mr. GUTIERREZ) 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 (title II of Public Law 105–100;  
6 8 U.S.C. 1255 note) is 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 date of  
13 promulgation of a final rule implementing the Cen-  
14 tral 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 date of  
20 promulgation of a final rule implementing the Cen-  
21 tral 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 Sec-  
16 retary of Homeland Security shall prescribe by regulation.  
17 The Attorney General and the Secretary of Homeland Se-  
18 curity may not refund any fees paid in connection with  
19 an application filed by a national of Guatemala or El Sal-  
20 vador under the amendments made by section 203 of that  
21 Act.

1 **SEC. 4. TECHNICAL AMENDMENTS TO THE NICARAGUAN**  
2 **ADJUSTMENT AND CENTRAL AMERICAN RE-**  
3 **LIEF ACT.**

4 (a) IN GENERAL.—Section 202 of the Nicaraguan  
5 Adjustment and Central American Relief Act (title II of  
6 Public Law 105–111; 8 U.S.C. 1255 note) is amended—

7 (1) in subsection (a)—

8 (A) by inserting before the period at the  
9 end of paragraph (1)(B) the following: “, and  
10 the Secretary of Homeland Security may waive  
11 the grounds of inadmissibility specified in para-  
12 graphs (1)(A)(i) and (6)(C) of section 212(a) of  
13 such Act for humanitarian purposes, to assure  
14 family unity, or when it is otherwise in the pub-  
15 lic interest”; and

16 (B) by amending paragraph (3) to read as  
17 follows:

18 “(3) RELATIONSHIP OF APPLICATION TO CER-  
19 TAIN ORDERS.—An alien present in the United  
20 States who has been ordered excluded, deported, or  
21 removed, or ordered to depart voluntarily from the  
22 United States under any provision of the Immigra-  
23 tion and Nationality Act may, notwithstanding such  
24 order, apply for adjustment of status under para-  
25 graph (1). Such an alien may not be required, as a  
26 condition of submitting or granting such application,

1 to file a separate motion to reopen, reconsider, or  
2 vacate such order. Such an alien may be required to  
3 seek a stay of such an order in accordance with sub-  
4 section (c) to prevent the execution of the order  
5 pending the adjudication of the application for ad-  
6 justment of status. If the Secretary of Homeland Se-  
7 curity denies a stay of a final order of exclusion, de-  
8 portation, or removal, or if the Secretary renders a  
9 final administrative determination to deny the appli-  
10 cation for adjustment of status, the order shall be  
11 effective and enforceable to the same extent as if the  
12 application had not been made. If the Secretary  
13 grants the application for adjustment of status, the  
14 Secretary shall cancel the order.”;

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

20 (3) in subsection (c)(1), by adding at the end  
21 the following: “Nothing in this section requires the  
22 Secretary of Homeland Security to stay the removal  
23 of an alien who is ineligible for adjustment of status  
24 under this section.”;

25 (4) in subsection (d)—

1 (A) by amending the heading by striking  
2 “SPOUSES AND CHILDREN” and inserting  
3 “SPOUSES, CHILDREN, AND UNMARRIED SONS  
4 AND DAUGHTERS”;

5 (B) by amending the heading of paragraph  
6 (1) by striking “IN GENERAL” and inserting  
7 “ADJUSTMENT OF STATUS”;

8 (C) by amending paragraph (1)(A) to read  
9 as follows:

10 “(A) the alien entered the United States  
11 on or before the date of the enactment of the  
12 Central American Security Act;”;

13 (D) by amending paragraph (1)(B) to read  
14 as follows:

15 “(B) the alien—

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

22 “(I) any determination of wheth-  
23 er the alien satisfies the age require-  
24 ment in the matter preceding sub-  
25 paragraph (A) of section 101(b)(1)

1 shall be made using the age of the  
2 alien on the date on which the prin-  
3 cipal alien filed for adjustment under  
4 subsection (a) or pursuant to the  
5 amendments made by section 203;

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

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

1           “(ii) was, at the time at which a prin-  
2           cipal alien filed for adjustment under sub-  
3           section (a) or pursuant to the amendments  
4           made by section 203, the spouse or child of  
5           such principal alien, the status of such  
6           principal alien is adjusted to that of an  
7           alien lawfully admitted for permanent resi-  
8           dence under subsection (a) or pursuant to  
9           the amendments made by section 203, and  
10          the spouse, child, or child of the spouse  
11          has been battered or subjected to extreme  
12          cruelty by such principal alien;” and

13          (E) by adding at the end the following new  
14          paragraph:

15          “(4) ELIGIBILITY OF CERTAIN SPOUSES AND  
16          CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

17                 “(A) IN GENERAL.—In accordance with  
18                 regulations to be promulgated by the Secretary  
19                 of Homeland Security and the Secretary of  
20                 State, upon approval of an application for ad-  
21                 justment of status to that of an alien lawfully  
22                 admitted for permanent residence under sub-  
23                 section (a) or pursuant to the amendments  
24                 made by section 203, an alien who is the spouse  
25                 or child of the alien being granted such status

1 may be issued a visa for admission to the  
2 United States as an immigrant following to join  
3 the principal applicant, if the spouse or child—

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

6 “(ii) applies for such a visa within a  
7 time period to be established by such regu-  
8 lations.

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

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

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

23 (5) in subsection (g), by inserting “or an immi-  
24 grant visa under subsection (d)(4)” after “pursuant  
25 to this section”; and



1 amendments made by this Act, shall submit fingerprints  
2 to the appropriate government agency in order to facilitate  
3 such processing.

4 **SEC. 6. MOTIONS TO REOPEN.**

5       Notwithstanding any time and number limitations  
6 imposed by law on motions to reopen, a national of Cuba  
7 or Nicaragua who, on the date of the enactment of the  
8 Act, has a final administrative denial of an application for  
9 adjustment of status under section 202 of the Nicaraguan  
10 Adjustment and Central American Relief Act, and who is  
11 made eligible for adjustment of status under that Act by  
12 the amendments made by this Act, may file one motion  
13 to reopen an exclusion, deportation, or removal proceeding  
14 to have the application reconsidered. Any such motion  
15 shall be filed within 180 days of the date of the enactment  
16 of this Act. The scope of any proceeding reopened on this  
17 basis shall be limited to a determination of the alien's eli-  
18 gibility for adjustment of status under the Nicaraguan Ad-  
19 justment and Central American Relief Act.

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