



Long, Chang & Associates, L.L.P.

Immigration Attorneys

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IMMIGRATION ALERT

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If you would like to receive our monthly Immigration Newsletter by e-mail, call our office at (336) 855-5700 or send an email with "Subscribe" in the subject line to info@longchangonline.com.

This Month's Featured Article

Understanding Conditional Permanent Resident Status based on Marriage to a U.S. Citizen

As a result of the Immigration Fraud Amendments Act of 1986, an individual who obtains permanent residence based on a marriage that was less than two (2) years old at the time the permanent resident status was granted obtains "conditional permanent residence". This individual will receive only a Permanent Resident Card with a 2-year validity period as opposed to the traditional 10-year validity period for all other permanent residents. This applies to both the spouse who obtains the conditional permanent resident status through marriage to a U.S. citizen and any child who also obtains conditional permanent resident status based on that marriage.

A conditional permanent resident has the same rights and privileges as any other permanent resident. He or she has the right to live and work in the United States on a permanent basis and can petition for his or her children. The key difference is that a conditional permanent resident must file a Form I-751 (Petition to Remove the Conditions on Residence) in order to remove the conditional basis of his or her permanent resident status. USCIS will not remind the conditional permanent resident of when to file. A conditional permanent resident who does not file the Form I-751 on time can lose his or her permanent resident status.

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**Conditional Permanent Residence
(Continued from Page 1)**

Generally, the Form I-751 Petition is supposed to be filed jointly by the conditional permanent resident and his or her spouse during the 90-day period prior to the expiration of the 2-year Permanent Resident Card. At that time, the Form I-751 and its filing fees should be submitted to the appropriate USCIS Service Center, along with evidence of the bona fide nature of the marriage. This evidence must prove to an immigration officer that the marriage upon which the conditional permanent resident status is based is a real, good faith marriage as opposed to a marriage that was entered into for the purpose of obtaining a green card (also known as a "sham" marriage.)

Evidence of a good faith marriage typically includes some or all of the following items which can be used to demonstrate that the conditional permanent resident and his or her spouse have lived together and are still living together as husband and wife:

- Birth certificates of children born during the marriage;
- Proof of residence together (apartment lease or home ownership in both names);
- Utility bills;
- Joint bank account statements;
- Credit cards;
- Medical insurance;
- Life insurance;
- Automobile insurance;
- Family photos;
- Evidence of trips together (airline tickets, passport stamps, etc.);
- Any other evidence that the couple is living together in a real marital relationship.

A conditional permanent resident and his or her spouse should gather as much of the foregoing evidence for the duration of the marriage so that it can be presented in good faith as part of the Form I-751 Petition.

While the general rule is that the Form I-751 Petition should be filed jointly, the conditional permanent resident can file the Form I-751 alone (without his or her spouse) and request a waiver in the following limited circumstances:

1. Death of the spouse of the conditional permanent resident;
2. Extreme hardship to the conditional permanent resident if he or she were removed from the United States;
3. The marriage was entered into in good faith but the marriage has been terminated (i.e., there must be a final divorce as opposed to just a marital separation); or
4. The marriage was entered into in good faith but the conditional permanent resident spouse or child was battered by or subjected to extreme cruelty caused by the other spouse.

The conditional permanent may be interviewed by the USCIS along with his or her spouse (where the Form I-751 Petition is filed jointly). If the Form I-751 is approved, then the conditional nature of the permanent resident status is removed and the permanent resident will receive a 10-year Permanent Resident Card.

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U.S. Citizenship & Immigration Services Proposes Large Fee Increase for Immigration Applications

On February 1, 2007, the United States Citizenship and Immigration Services (USCIS) published in the Federal Register its proposal to increase most immigration applications in the near future. The proposal would increase almost all immigration applications a substantial amount. The table below shows the current fees for some of the most common immigration applications and petitions:

Form type	Current fees (dollars)	Form type	Current fees (dollars)
I-90	190	I-695	65
I-102	160	I-698	180
I-129	190	I-751	205
I-129F	170	I-765	180
I-130	190	I-817	200
I-131	170	I-821	50
I-140	195	I-824	200
Waiver Applications	265	I-829	475
I-290B / Motions	385	I-881	285
I-360	190	I-905	230
I-485	325	I-914	270
I-526	480	N-300	120
I-539	200	N-336	265
I-600/600A	545	N-400	330
I-687	255	N-470	155
I-690	95	N-565	220
I-694	110	N-600/600K	255
		Biometrics	70

Based on this proposal, a marriage-based adjustment of status case may soon cost \$1,340.00 (including the fees for the I-130, I-485 and I-765 applications typically filed in such a case). Currently, this same case would cost \$765.00. This is an increase of \$575.00.

Naturalization applicants who now pay \$400.00 would soon pay \$675.00 if the proposal passes.

There are several major reasons why this massive fee hike is wrong and illogical:

First, USCIS' budget for Fiscal Year 2008 is \$2.6 billion. Almost \$2.54 billion (99% of this budget) comes from fees associated with immigration applications. That's right – the U.S. immigration system is almost entirely funded by the immigrants themselves based on the applications they file. Despite the massive economic benefits associated with immigration, the U.S. government provides almost no funding to cover the costs associated with immigration cases. It is time for Congress to fund USCIS if USCIS and the federal government are serious about reaching its stated goal of adjudicating cases within 6 months of filing.

Second, in an era when the government has expressed its concern to deal with the illegal immigration situation, increasing fees so dramatically will undoubtedly cause some immigrants who may be eligible for certain immigration benefits to not apply due to such a high cost. If those who are eligible to file for certain immigration benefits in order to stay legal or to become legal do not file due to the high cost, this will increase the number of illegal immigrants.

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Government Proposes Fee for PERM Labor Certification Cases

Congress will soon consider a fee to be imposed on PERM labor certification cases. There is no timetable for this fee. Currently, the PERM labor certification process is funded by the government and no fees are charged to employers using the PERM labor certification system. That could soon change as Congress will soon consider a fee to be imposed on PERM labor certification cases. There is no timetable for this fee. Stay tuned to www.longchangonline.com for further updates on this issue.

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Passports Required for Air Travel Between U.S. and Canada, Mexico, Central America, South America, the Caribbean and the Bahamas

Beginning January 23, 2007, all individuals traveling between the United States and Canada, Mexico, Central America, South America, the Caribbean and the Bahamas are required to have a passport.

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Labor Certification Backlog Reduction Update

Our office has seen an increase in pre-PERM labor certification approvals in recent months, indicating that the Department of Labor's efforts of reducing the backlog in pre-PERM labor certification cases. The Department of Labor recently announced that, at the time the labor certification system was converted from the "old" system to the "new" PERM system, there were 362,000 labor certifications filed under the "old"/pre-PERM system. The Department of Labor transferred these cases to two Backlog Reductions Centers (one in Dallas and one in Philadelphia). As of January 25, 2007, 67% of these cases have been adjudicated. The Department of Labor expects to have all of these "old" cases adjudicated by September 30, 2007.

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About Us

Long, Chang & Associates, L.L.P. is a full-service immigration law firm concentrating in the areas of employment-based and family-based immigration law. Our law firm has successfully represented individuals and employers through the immigration process with the Immigration and Naturalization Service (INS), Bureau of Citizenship and Immigration Services (BCIS), United States Citizenship and Immigration Service (USCIS) and at U.S. consulates and embassies in order to obtain both non-immigrant (temporary) visas and immigrant (permanent) visas on behalf of individuals or employees.

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Kristen Aekyung Chang is a founding partner of Long, Chang & Associates, L.L.P. She practices exclusively in immigration law and is a member of the American Immigration Lawyers Association (AILA) and the North Carolina State Bar.

Born in Seoul, South Korea, Ms. Chang attended the University of North Carolina at Chapel Hill where she received a Bachelor of Arts degree in Psychology. While achieving academic success at the undergraduate level, Ms. Chang devoted much of her time to volunteerism. She served as the Chairperson on the Planning Committee for the University's Bicentennial Class celebration and served as a Research Assistant in the University's Psychology Department where she performed valuable research in the area of cognitive memory. Ms. Chang also volunteered in the school's International Department as an English language assistant for international students and faculty members and at a local psychiatric hospital. In addition to her numerous public-service efforts during her undergraduate career at the University of North Carolina at Chapel Hill, Ms. Chang studied abroad at the prestigious London School of Economics where she achieved the top academic ranking in International Business Strategy and Human Resource Management.

Ms. Chang received her J.D. (law) degree from the Wake Forest University School of Law. During law school, Ms. Chang was selected as a member of the Law School's Moot Court Board based on her performance in the school's trial court competition. She was one of three members on the school's nationally-recognized and award-winning National Moot Court Evidence Team. During law school, Ms. Chang studied Labor and Employment Law at the law school's summer program in Italy.

Following law school, Ms. Chang opened her own immigration law practice in Greensboro, North Carolina, and subsequently joined Mr. Long in founding Long, Chang & Associates. As a naturalized citizen of the United States, Ms. Chang understands the immigration practice not just as an immigration lawyer but as an immigrant herself who has gone through the immigration process. Based on her personal experiences, Ms. Chang has a remarkable way of relating with her clients and perceiving their anxieties and concerns.

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David J. Long founded Long, Chang & Associates, L.L.P. in 1998. He has been recognized by the North Carolina State Bar as a Board-Certified Specialist in Immigration Law. Mr. Long is a member of the American Immigration Lawyers Association (AILA) and the North Carolina State Bar. Mr. Long serves as a Mentor for other immigration attorneys through AILA.

Prior to founding Long, Chang & Associates, L.L.P., Mr. Long worked as an attorney with the law firm of Kilpatrick Stockton in Winston-Salem, North Carolina. Mr. Long practices in the areas of immigration law, corporate law and real estate.

Born in Philadelphia, Pennsylvania, Mr. Long attended the University of North Carolina at Chapel Hill where he studied in the Honors Program and received a Bachelor of Arts degree in Political Science. In addition, Mr. Long studied the Korean Language at Duke University for a semester while attending UNC-CH. Mr. Long graduated magna cum laude and in the top 1% of his class.

Mr. Long graduated with highest honors and received his J.D. (law) degree from the Wake Forest University School of Law. During law school, Mr. Long was selected as a member of the Law Review based on his academic standing. He was one of three

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members on the school's nationally-recognized Gabrielli Family Law Moot Court Team. Mr. Long also studied Labor and Employment Law at the law school's summer program in Italy. Following law school, Mr. Long worked as an attorney in the commercial real estate department of Kilpatrick Stockton LLP in Winston-Salem, NC, one of largest law firms in the United States. After two years of working at a large law firm, Mr. Long desired the opportunity to assist clients on a more personal basis. As a result, he joined Ms. Chang in forming Long, Chang & Associates, L.L.P. Most recently, Mr. Long served as an adjunct faculty member at Handong International Law School in Pohang, South Korea where he taught U.S. Immigration and Naturalization Law.

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