



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

Immigration Attorneys

Phone (336) 855-5700 ♦ www.longchangonline.com

OCTOBER 2005

IMMIGRATION NEWSLETTER

VOLUME 1, NUMBER 1



Attorneys
[David J. Long](#)
[Kristen A. Chang](#)

SUBSCRIBE NOW!!

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

Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

The Department of State recently published the [October 2005 Visa Bulletin](#). The Visa Bulletin provided shocking news with respect to visa availability (or, in this case, unavailability) for many employment-based immigration categories. In particular, the October 2005 Visa Bulletin announced cut-off dates on a worldwide basis in the Employment-Based Third Preference (EB-3) work visa categories. This essentially means that (unless Congress acts to increase the numbers of visas available for employment-based immigration categories) there will be very long delays for all EB-3 categories.

As news of the EB-3 problem has spread throughout the immigration community, our immigration law office has received numerous calls from immigrants and has met with numerous clients to discuss exactly what the October 2005 Visa Bulletin announcement means for individuals seeking immigrant visas ("green cards") through employment. Following are some of the most frequently asked questions on this topic:

(Continued on page 2)



Other Articles In This Issue:

- Page 4: [What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen](#)
- Page 5: [Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States](#)
- Page 8: [U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services](#)
- Page 8: [Update on Charlotte, NC USCIS Office Processing Times](#)
- Page 9: [DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims](#)

CONTACT US:

Phone: (336) 855-5700
Fax: (336) 855-7111
Email: info@longchangonline.com

We're on the Web!!
www.longchangonline.com

4915 Piedmont Pkwy., Suite 103
Jamestown, NC 27282



SCHEDULE A CONSULTATION

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com.



SCHEDULE A CONSULTATION

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

THIS MONTH'S ARTICLES:

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

E-B Immigration Update (Continued from Page 1)

1. What is the Visa Bulletin and why is it so important?

The Visa Bulletin is a document published by the Department of State that summarizes the availability of immigrant visas (green cards) in employment-based and family-based immigration cases on a monthly basis. The U.S. Congress has established a fixed number of immigrant visas that can be issued on an annual basis in employment-based and family-based cases. The Department of State is responsible for monitoring the issuance of immigrant visas as each month passes. Through the Visa Bulletin, the Department of State announces to the public which individuals can apply for a green card in a particular month. For instance, the [October 2005 Visa Bulletin](#) shows that, in order for a Korean person to file for a green card in the EB-3 category during October 2005, he or she must have a priority date earlier than March 1, 2001.

2. Where can I find the Visa Bulletin?

The Visa Bulletin is published by the Department of State. As a service to the immigration community, we link to the current Visa Bulletin on our website at www.longchangonline.com/ProcessingTimes.asp. The Visa Bulletin typically is published by the Department of State around the middle of the month for the following month. For instance, the October 2005 Visa Bulletin was published on in mid-September. Our website is automatically updated when the Visa Bulletin is updated. If you have a case that you want to track with the Visa Bulletin, you might consider book-marking the Visa Bulletin link from our website.

3. What does it mean if there is a cut-off date for a particular employment-based immigration category?

A cut-off date in a particular category means that the demand for immigrant visas (green cards) in that category has exceeded the available supply of immigrant visa numbers for that category. When this occurs, the Visa Bulletin will place a cut-off date in that category. A beneficiary with a priority date later than the cut-off date listed in the Visa Bulletin for the category under which he or she is applying cannot file for an immigrant visa (whether outside or inside the United States) until the cut-off date moves forward and goes beyond the beneficiary's priority date.

Since this is such an important concept to understand, it is helpful to consider the following example:

A Korean national is the beneficiary of an approved labor certification that was filed on February 1, 2001 under the EB-3 category. The Korean beneficiary wants to file for his green card in October 2005. Assuming all other criteria are met, the Korean beneficiary can file for a green card since his priority date (February 1, 2001) is earlier than the cut-off date (March 1, 2001) listed for EB-3 cases for Koreans in the October 2005 Visa Bulletin. As a result of being able to file for the green card, the Korean beneficiary (if he is in the United States) may file for an employment authorization document (commonly referred to as an "EAD" or "work permit") while his application for adjustment of status (I-485) is pending with the United States Citizenship and Immigration Services (USCIS).

Now, consider what happens if the Korean national filed his labor certification under PERM and, as a result, has a priority date of August 1, 2005. Since his priority date in this scenario (August 1, 2005) is later than the cut-off date (March 1, 2001) listed for EB-3 cases for Koreans in the October 2005 Visa Bulletin, he cannot file for the green card at this time. Instead, he must wait until the cut-off date moves beyond his priority date before he can file for an immigrant visa. Remember, the priority date will not change. Only the cut-off date will change. That is why it is important to pay close attention to the Visa Bulletin and to monitor the movement in the cut-off dates for your particular category.

(Continued on next page)



SCHEDULE A CONSULTATION

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

THIS MONTH'S ARTICLES:

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

4. What employment-based categories have cut-off dates?

For a complete listing of cut-off dates in the employment-based immigration categories, please view the Visa Bulletin from our website at www.longchangonline.com/ProcessingTimes.asp.

The most surprising development is that, beginning in October 2005, there are cut-off dates on a worldwide basis in the employment-based third preference category (EB-3). The cutoff date for Korea and all countries other than China, India, Mexico and the Philippines is March 1, 2001.

5. What is a priority date and how can I determine what my priority date is?

An individual's priority date is the date assigned to a beneficiary for purposes of determining the availability of an immigrant visa. A beneficiary with a priority date later than a cut-off date will not have a visa available to him or her and thus will not be able to apply for an immigrant visa (green card). A beneficiary with a priority date earlier than a cut-off date will have an immigrant visa number available to him or her and thus will be able to file for an immigrant visa (assuming all other criteria are met).

The priority date for an individual who is the beneficiary of an approved labor certification will be the date that the labor certification was properly filed. Prior to PERM, this would be the date the ETA Form 750 was filed with State Workforce Agency. For PERM cases, this will be the date the Form 9089 was filed electronically or by mail with the Department of Labor. Typically, the original, approved labor certification will have the filing date listed on it. Since most EB-2 and EB-3 cases involve labor certifications, the priority dates in such cases will be based upon the filing date of the applicable labor certification.

6. How long will it take for the cut-off date in the EB-3 category to become current?

It is difficult to predict how long it will take for the cut-off dates to become current or how fast the cut-off dates will move forward. The October 2005 Visa Bulletin announced that "forward movement of the cut-off-dates in these categories is likely to be limited." This means that there may not be much change in the cut-off dates for at least several months.

It is important to understand that cut-off dates are established on a monthly basis by the Department of State. From one month to the next, the cut-off date may move slightly ahead or may not change at all. The reason it may not move very quickly for the next several months is that there is expected to be a large demand for immigrant visas as backlogged labor certifications from several years ago get approved by the Department of Labor.

In order for there to be a significant or fast change in the cut-off dates, Congress must pass a law that would increase the number of immigrant visas (green cards) that can be issued on an annual basis. The Department of State recently stated that for the upcoming fiscal year (October 1, 2005 to September 30, 2006), there is expected to be approximately 156,000 employment-based immigrant visas. These visas will be distributed over all of the different employment-based immigration preference categories (EB-1, EB-2, EB-3, EB-4 and EB-5). When a particular employment-based green card is approved, the beneficiary and each of his qualifying family members (i.e., spouse and unmarried children under the age of 21) are each issued an immigrant visa and each visa is counted against the estimated figure of 156,000.

Stay tuned to next month's Newsletter for Part II of this Article



SCHEDULE A CONSULTATION

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

THIS MONTH'S ARTICLES:

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

What It Means to be a Conditional Permanent Resident Following Marriage to a U.S. Citizen

Background

An individual who receives legal permanent resident status (also known as LPR status or green card status) based on marriage to a United States citizen is considered a "conditional permanent resident" if the qualifying marriage took place within two (2) years of the date he or she receives permanent residence. Such an individual is required to file additional paperwork with the United States Citizenship and Immigration Service (USCIS) in order to maintain his or her permanent resident status. This article will explore what it means to be a conditional permanent resident and how to remove the conditional status.

If the marriage took place more than 2 years before the green card is received, the individual receives permanent residence without any conditional status. Such an individual receives permanent resident status that will not expire on given date. The individual will receive an alien registration card with a 10-year validity period. This simply means that in order to maintain proof of his permanent resident status, he must renew or replace his alien registration card at the end of the 10-year period. Failure to renew it does not result in the loss of permanent resident status. It simply means the person does not have proof of permanent resident status that may lead to practical difficulties in working or traveling back to the United States after a trip abroad.

If you obtain your permanent resident status based on marriage to a United States citizen, check your alien registration card to see when the card expires. If your card expires two years after the date you became a permanent resident, then you are a conditional permanent resident and must file additional paperwork to maintain your permanent resident status.

How A Conditional Permanent Resident Is Different Than Other Permanent Residents

In many ways, a "conditional permanent resident" is entitled to all of the rights and privileges of all other permanent residents. A "conditional permanent resident" can live and work in the United States on a permanent basis. He or she can travel outside the United States subject to the same rules and conditions as all other permanent residents. The major difference is that a conditional permanent resident can lose permanent resident status if an application to remove the conditional status is not filed with the USCIS within the appropriate time period. Subject to limited exceptions, in order to remove the conditionals on the permanent resident status, a conditional permanent resident and his or her spouse must jointly file a Form I-751 application package with the required supporting documentation with the USCIS within the 3-month period prior to the 2nd anniversary of the date he or she received permanent residence. It is extremely important that the conditional permanent resident remember these dates because the USCIS will not remind the conditional permanent resident. Failure to file in the required time period can result in the loss of permanent resident status and removal from the United States.

It is important to note that the application to remove the conditions (Form I-751) must be filed jointly. That being said, if the conditional permanent resident's spouse cannot or will not sign the application, then the conditional permanent resident can file the application alone and request a waiver of the joint filing requirement. A waiver can be requested where: (a) the conditional permanent resident's spouse is deceased; (b) the marriage was entered into in good faith, but the marriage was entered terminated through divorce or annulment; (c) the marriage was entered into in good faith, but the conditional permanent resident has been battered or subjected

(Continued on next page)



**SCHEDULE A
CONSULTATION**

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

**THIS MONTH'S
ARTICLES:**

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

to extreme cruelty by his or her spouse; or (d) the termination of the conditional permanent resident's status and his or her removal from the United States would result in an extreme hardship.

A conditional permanent resident should consider using a qualified immigration attorney to prepare the required package and to timely file the required package since the failure to properly file can result in the loss of permanent resident status and removal from the United States.

The Rationale for Treating Conditional Permanent Residents Differently

I am often asked why the immigration officials require a conditional permanent resident to file additional paperwork after having already obtained the green card. The simplest explanation is the USCIS wants to take a second look at the marriage to determine that the marriage is real and bona fide (i.e., not a fake or fraudulent marriage). Essentially, the rationale is that, if your marriage was entered into only a short time before you got the conditional green card status, then there is a chance that USCIS could have made a mistake at your first adjustment of status interview when it approved your case. The law requiring the conditional permanent resident to file a separate application package within the 3-month period prior to the 2nd anniversary of the date permanent residence was granted gives the USCIS another opportunity to evaluate the bona fide nature of the marriage.

Conclusion

It is important for an individual who gains permanent resident status through marriage to a United States citizen to determine if he or she is a "conditional" permanent resident. While a conditional permanent resident is similar to any other permanent resident, there is a one crucial distinction – the requirement to file a separate application package in order to remove the conditions on the permanent resident status. Failure to do so properly can result in termination of permanent resident status and removal from the United States.

* * * * *

Stay In Status: Out of Status Aliens Can Be Barred from Re-Entering the United States

It is extremely important for aliens to stay "in status". This means that aliens must be careful not to let their current immigration status expire. As with anything in immigration law, your options are much better when your immigration status is current as opposed to when you have stayed in the United States beyond your authorized period of stay or are out of status. The key term to keep in mind is "unlawful presence". Depending on how long an alien has been unlawfully present in the United States, an alien may be barred from re-entering the United States for up to ten (10) years.

What Constitutes or Results in "Unlawful Presence"

Section 212(a)(9)(B)(ii) states that an alien is unlawfully present if he or she is in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled. In most cases, an alien's authorized period of stay in the United States is based on the alien's I-94 card. An alien receives an I-94 when he or she enters the United States. The I-94, which is a small white piece of paper attached to the alien's passport, is stamped when the individual enters the United States at a port of entry. For most classes of aliens, the I-94 stamp sets forth a particular date indicating at what point the alien's authorized period of stay expires. If an alien remains in the United States without obtaining a change of status or extension of status after the date stamped on the initial I-94, then the alien's unlawful presence begins to accrue or add up. The

(Continued on next page)



SCHEDULE A CONSULTATION

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

THIS MONTH'S ARTICLES:

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

number of days of unlawful presence determines how long an alien is barred from re-entering the United States if he or she leaves the country.

What Does Not Result in "Unlawful Presence"

As noted above, unlawful presence generally results when an individual remains in the United States beyond the period of stay authorized by the immigration officials. Other status violations, such as working without authorization, will cause an individual to be "out of status" but do not result in "unlawful presence". Thus, there is a huge distinction between being "out of status" and being "unlawfully present". An individual who is "unlawfully present" in the United States is "out of status", but the reverse is not necessarily true -- an individual who is out of status may not be "unlawfully present". This distinction is important to understand in light of the 3/10 year bars which may result from "unlawful presence".

The 3/10 Year Bars

The 3-Year Bar: Section 212(a)(9)(B)(i)(I) provides that an alien who is unlawfully present in the United States for more than one hundred eighty (180) days but less than one (1) year, and who voluntarily departs the United States prior to the commencement of removal proceedings, is barred from re-entering the United States for three (3) years.

The 10-Year Bar: Section 212(a)(9)(B)(i)(II) provides that an alien who is unlawfully present in the United States for more than one (1) year, and who voluntarily departs the United States, is barred from re-entering the United States for ten (10) years.

Permanent Bar: An individual who is subject to the 10-year bar and who subsequently re-enters the United States without inspection (illegally) is subject to what amounts to a permanent bar. Such an individual is barred from obtaining any non-immigrant or immigrant status. There is no waiver for this permanent bar.

Section 212(a)(9)(B)(iv) essentially provides that (for purposes of the three-year bar only and not the ten-year bar) if the alien files a non-frivolous application for a change of status or extension of stay before the authorized stay expires, unlawful presence will be tolled or suspended for a maximum period of one hundred twenty (120) days while the application for change of status is pending.

Exceptions and Waivers

There are limited exceptions for determining unlawful presence. These exceptions exist for minors (individuals under 18 years of age), asylees, family unity beneficiaries, and battered spouses and children. As a result, while an alien is a minor, asylee, family unity beneficiary or battered spouse or child, unlawful presence does not accrue or add up.

In addition to the exceptions, there are limited waivers for those individuals who are otherwise subject to the 3 and 10 year bars. An individual subject to either bar may request that the appropriate immigration office [either the United States Citizenship and Immigration Service (USCIS) or the Department of State (DOS)] waive either the 3-year or 10-year bar if the individual is the spouse or son or daughter of a United States citizen or lawful permanent resident ("green card" holder) if "extreme hardship" would result to the individual's relatives. It is very difficult, however, for the individual to prove "extreme hardship." There are no laws or regulations which define or clarify what this term means. Over the years, however, immigration officials have typically provided guidance which shows that "extreme hardship" is a very high standard to meet. One particular U.S. Consulate has stated: "*The key term in the provision I "extreme" and thus only in cases of real actual or prospective injury to the United States national or lawful permanent resident will the bar be removed. Common results of the bar, such as separation, financial difficulties, etc., in and of*

(Continued on next page)



SCHEDULE A CONSULTATION

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

THIS MONTH'S ARTICLES:

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

themselves are insufficient to warrant approval of an application unless combined with much more extreme impacts. Matter of Ngai, 19 I & N Dec. 245."

Needless to say, if the individual is outside the United States and is unsuccessful in obtaining approval of a waiver request, then the individual remains barred from re-entering the United States for the applicable period (either 3 years or 10 years). If the individual is inside the United States and is applying for adjustment of status, a waiver application can be submitted with the adjustment of status package. If the waiver is granted, then the individual can adjust his or her status (assuming he is otherwise qualified for permanent resident status and is admissible). If the waiver request is denied, then the individual will be subject to removal proceedings.

Impact on Asian Immigrants

How does "unlawful presence" and the "3/10 year bars" affect Asian aliens? First, the overwhelming majority of Asian aliens arrive in the United States by airplane. This means that when they arrive, Asian aliens receive an I-94 card with a date stamped in it which is the crucial date for determining the unlawful presence issue. Also, when an Asian alien returns to his or her native country, he does so by airplane. As a result, the INS has a record of when the alien arrives in and departs from the United States. This makes it fairly easy for INS to determine how long an individual has been unlawfully present in the United States.

If the alien is unlawfully present for an amount of time which would trigger the 3/10 year bars upon departing the United States and that individual subsequently returns to his native country, then (in most cases) the alien will be barred from re-entering the United States for either 3 or 10 years. Many aliens never intend to return to their native country and do not worry about the 3 and 10 year bars. However, they must keep in mind that they may have to return to their home country at some point due to the death or marriage of a family member or for unexpected business reasons. Even more common is the situation where an individual wants to file for an immigrant visa (green card) in the United States based on an approved labor certification and cannot do so as a result of being unlawfully present for more than 180 days. If that individual is not grandfathered under Section 245(i), he will face a difficult choice of having to return to his home country to try to consular process (and thus subject himself to either a 3-year or 10-year bar from re-entering if a waiver of the bar is not granted) or not applying at all for the immigrant visa until a change occurs in the law, such as the re-introduction of INA Section 245(i).

Even if the Asian alien never returns to his native country, the unlawful presence issue still could impact him while living in the United States. An alien who wants to adjust his or her status or to change status often is required to return to his or her native country to complete the adjustment of status process or change of status process at the United States embassy. If the alien who has been unlawfully present in the United States for at least 6 months does return to his native country to complete the adjustment or change of status process, then he could be barred from re-entering the United States for either 3 or 10 years.

Important Note on Advance Parole

Many individuals in the United States apply for an advance parole (travel) document as part of an adjustment of status package. Occasionally, the USCIS will grant the advance parole request and issue a travel document even though such individual will become subject to either the 3 or 10 year bar by departing the United States. An individual who has accrued "unlawful presence" in excess of six (6) months and who departs the United States voluntarily after receipt of an advance parole document will still be subject to the 3 or 10 year bar.

Conclusion

The new immigration laws make it very important for aliens to remain in status and to not let their immigration status terminate or expire. Aliens who are in status

(Continued on next page)



**SCHEDULE A
CONSULTATION**

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

**THIS MONTH'S
ARTICLES:**

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

should strive to remain in status. That means the alien must consider extending his current status or changing his status prior to its expiration. It also may mean that an alien should consider to his native country before he is unlawfully present for an amount of time that would trigger the 3- and 10-year bars.

For an evaluation of your particular case, to see if you are subject to the 3 and 10 year bars, or to extend or change your current visa status, you may contact an immigration attorney at Long, Chang & Associates, L.L.P.

* * * * *

**U.S. Senators Address Unused Chile/Singapore
H-1B Numbers with U.S. Citizenship &
Immigration Services**

On September 20, 2005, several U.S. Senators addressed the unused H-1B numbers allotted to Chile and Singapore with USCIS by way of letter. This means that, as early as October 1, 2005, additional H-1B visas may become available to individuals from other countries. To read the letter in its entirety, visit the Articles section of our website at www.longchangonline.com/Articles.asp and click on the link for this article.

* * * * *

Update on Charlotte, NC USCIS Processing Times

On September 8, 2005, I attended a meeting at the Charlotte, NC office of the United States Citizenship and Immigration Services in which the Officer in Charge of the Charlotte office indicated the following:

1. Processing times for N-400 Applications for Naturalization and family-based I-485 applications for permanent resident status were averaging approximately 14 months from the date of filing.
2. Almost 50% of all family-based adjustment of status (I-485) cases are being continued for various reasons. A "continued" case is one in which the immigration officer, at the time of interview, cannot make a decision due to the file being incomplete. These continued cases result in a very long delay (sometimes as much as one year from the date of interview). Items that are commonly missing at the time of interview are criminal records for the beneficiary and affidavit of support documents (such as tax returns and letters of employment).

The USCIS has indicated that it wants all offices to process cases within six (6) months from the initial filing date. This goal must be reached, according to the USCIS, by the October 1, 2007. To reach this goal, USCIS will be much stricter about accepting packages that are incomplete at the time of filing. The USCIS has indicated that if files are submitted in an incomplete fashion it plans on rejecting the files. If the file is accepted for filing but USCIS later determines that needed information is missing, it plans on sending out a Request for Evidence (in which the needed information is requested) and, if not properly responded to, USCIS plans on denying these cases without having an interview. The bottom line is that the package must be properly and completely prepared at the time of filing. If not, your case likely will be rejected by USCIS. This is one way that USCIS believes it can reduce the overall processing times of cases – by either not accepting them or rejecting them for failure to provide all necessary information.

* * * * *



**SCHEDULE A
CONSULTATION**

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

**THIS MONTH'S
ARTICLES:**

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282

Press Release Regarding I-9 Documentation Requirements for Hiring Hurricane Victims

The Department of Homeland Security issued a press release yesterday advising that DHS will temporarily suspend sanctioning of employers who hire victims of Hurricane Katrina without proper I-9 documentation. To read the press release in full, visit the Articles section of our website at www.longchangonline.com/Articles.asp and click on the link for this article.

* * * * *

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.

* * * * *



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.

* * * * *



**SCHEDULE A
CONSULTATION**

To schedule an in-person or telephone consultation to discuss your immigration case, call our office at (336) 855-5700 or send an email to info@longchangonline.com

**THIS MONTH'S
ARTICLES:**

[Page 1:](#) Employment-Based Immigration Update: "I've Heard About the October 2005 Visa Bulletin. Now What?"

[Page 4:](#) What It Means to be a Conditional Permanent Resident After Marriage to a U.S. Citizen

[Page 5:](#) Stay In Status: Out of Status Aliens Can Be Barred From Re-Entering the United States

[Page 8:](#) U.S. Senators Address Unused Chile/Singapore H-1B Numbers with U.S. Citizenship & Immigration Services

[Page 8:](#) Update on Charlotte, NC USCIS Office Processing Times

[Page 9:](#) DHS Press Release Regarding I-9 Documentation Requirements for Hurricane Katrina Victims

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

Phone: (336) 855-5700

Fax: (336) 855-7111

Email:

info@longchangonline.com

We're on the Web!!

www.longchangonline.com

4915 Piedmont Parkway
Suite 103
Jamestown, NC 27282



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 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.

* * * * *

IMPORTANT NOTE: This Newsletter is for informational purposes only, as a service for our clients and friends. The contents of this Newsletter and our website are not intended as legal advice for any purpose, and you should not consider them as advice or as legal opinion on any matters. This Newsletter does not create, and is not intended to create, any attorney/client relationship between you and Long, Chang & Associates, L.L.P.

* * * * *