
INSTRUCTIONS

1. PREPARATION OF APPLICATION.

To apply for cancellation of removal under section 240A(b) of the Immigration and Nationality Act (INA), you must fully and accurately answer all questions on the attached Form EOIR-42B. You must also comply with all of the instructions contained in this form. These instructions have the force of law. A separate application must be prepared and executed for each person applying for cancellation of removal. An application on behalf of an alien who is mentally incompetent or is a child under 14 years of age shall be executed by a parent or guardian.

Your responses must be typed or printed legibly in ink. Do not leave any questions unanswered or blank. If any questions do not apply to you, write "none" or "not applicable" in the appropriate space.

To the extent possible, answer all questions directly on the form. If there is insufficient room to respond fully to a question, please continue your response on an additional sheet of paper. Please indicate the number of the question being answered next to your response on the additional sheet, write your alien registration number, print your name, and sign, date, and securely attach each additional sheet to the Form EOIR-42B.

2. BURDEN OF PROOF.

The burden of proof is on you to prove that you meet all of the statutory requirements for cancellation of removal for certain nonpermanent resident aliens under section 240A(b) of the INA and that you are entitled to such relief as a matter of discretion. To meet this burden, your responses to the questions on the application should be as detailed and complete as possible. You should also attach to your application any documents that demonstrate your eligibility for cancellation of removal (see "SUPPORTING DOCUMENTS" below).

3. SUPPORTING DOCUMENTS.

You should submit documentary evidence to show that you have maintained continuous physical presence in the United States for the required period. Documents which may show evidence of your physical presence in the United States include, but are not limited to, bankbooks, leases, deeds, licenses, receipts, letters, birth records, church records, school records, employment records, and evidence of tax payments.

You should submit documents which help to show that you are, and have been, a person of good moral character during the entire period of continuous physical presence in the United States required for eligibility for cancellation of removal. You should submit police records from each jurisdiction in which you resided during such period. To show good moral character, it is recommended that you submit the affidavits of witnesses attesting to your good moral character, preferably citizens of the United States, and if you are employed, your employer. The affidavit from your employer should include information regarding the nature and duration of your employment and your earnings.

You should submit official certification to establish your relationship to those you claim would suffer hardship by your removal, and if such persons are citizens of the United States or lawful permanent residents, evidence of their citizenship or lawful permanent resident status. Documentary evidence of such relationships may include, but are not limited to, birth records, marriage certificates, proof of divorce or termination of marriage, and death certificates. You should also submit with your application copies of any documents which you were issued by the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service. The Immigration Judge may require you to submit additional records relating to your request for cancellation of removal. These documents may include, but are not limited to, documents which reflect payment of taxes, court convictions, and payment of child support during your physical presence in the United States.

You should also submit with your application copies of any documents which the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service, issued to you. You should also submit all documents which reflect payment of taxes, your criminal history, including all conviction records, and payment of child support during your physical presence in the United States. The Immigration Judge may require you to submit additional records relating to your request for cancellation of removal.

The original of all supporting documents must be available for inspection at the hearing. If you wish to have the original documents returned to you, you should also present reproductions.

**Application for Cancellation of Removal and Adjustment
of Status for Certain Nonpermanent Residents**

4. REQUIRED BIOMETRIC AND BIOGRAPHIC INFORMATION.

Each applicant 14 years of age or older must also comply with the requirement to supply biometric and biographic information. You will be given instructions on how to complete this requirement. You will be notified in writing of the location of the Application Support Center (ASC) or the designated Law Enforcement Agency where you must go to provide biometric and biographic information. You will also be given a date and time for the appointment. It is important to furnish all the required information. Failure to comply with this requirement may result in a delay in your application or in your application being deemed abandoned and dismissed by the Immigration Court.

5. TRANSLATIONS.

Any document in a foreign language must be accompanied by an English language translation and a certificate signed by the translator stating that he/she is competent to translate the document and that the translation is true and accurate to the best of the translator's abilities. Such certification must be printed legibly or typed.

6. PHOTOGRAPHS.

Unless you are incarcerated or detained in a facility which prevents your compliance with this instruction, you must submit two glossy, unretouched, color photographs of yourself taken within 30 days of the date of this application. These photos must have a white background and must not be mounted. The dimension of your facial image in the photograph should be about one (1) inch from the chin to the top of your hair and you should be shown in full frontal/passport-style view with your eyes open. Using a pencil or felt pen, you should lightly print your name and alien registration number on the back of each photograph.

7. FEES.

Before you file your Form EOIR-42B with the Immigration Court, you must pay the required \$100 filing fee and the biometrics fee to the Department of Homeland Security (DHS). Evidence of payment of these fees in the form of a copy of the DHS, U.S. Citizenship and Immigration Services (USCIS) ASC notice of fee receipt and biometrics appointment instructions must accompany your Form EOIR-42B. These fees will not be refunded, regardless of the action taken on your application. Therefore, it is important that you read the advice, instructions, and application carefully before responding. **If you are unable to pay the filing fee, you may ask the Immigration Judge to permit you to file your Form EOIR-42B without fee (fee waiver).**

DO NOT SEND CASH. All fees must be submitted in the exact amount. Remittance may be made by personal check, cashier's check, certified bank check, bank international money order, or foreign draft drawn on a financial institution in the United States and payable to the "Department of Homeland Security" in United States currency. If the applicant resides in the Virgin Islands, the check or money order must be payable to the "Commissioner of Finance of the Virgin Islands." If the applicant resides in Guam, the check or money order must be made payable to the "Treasurer, Guam." Personal checks are accepted subject to collectibility. An uncollectible check will render the application and any documents issued pursuant thereto invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn. When the check is drawn on an account of a person other than the applicant, the name and alien registration number of the applicant must be entered on the face of the check. All checks must be drawn on a bank located in the United States.

8. SERVING & FILING YOUR APPLICATION.

- A. You must first comply with the DHS instructions for providing biometric and biographic information to USCIS, which involves sending a copy of the application to the appropriate USCIS Service Center. The DHS instructions also address payment of the application fees.
- B. You must then serve the following documents on the Assistant Chief Counsel for DHS, U.S. Immigration and Customs Enforcement (ICE):

**Application for Cancellation of Removal and Adjustment
of Status for Certain Nonpermanent Residents**

- a copy of your Form EOIR-42B, Application for Cancellation of Removal, with all supporting documents and additional sheets;
- a copy of the USCIS ASC notice of fee receipt and biometrics appointment instructions;
- the original Biographical Information Form G-325A; and
- a photograph of you which meets the requirements of instruction #6 above.

You must file the following documents with the appropriate Immigration Court:

- the original Form EOIR-42B with all supporting documents and additional sheets;
- a copy of the USCIS ASC notice of fee receipt and biometrics appointment instructions;
- a copy of Biographical Information Form G-325A;
- a photograph of you which meets the requirements of instruction #6 above; and
- a completed certificate showing service of these documents (See Part 10 of the Application on page 8) on the ICE Assistant Chief Counsel, unless service is made on the record at the hearing.

Retain your USCIS ASC biometrics confirmation document or a copy of your Fingerprint Card, FD-258, if applicable, as proof that your biometrics were taken, and bring it to your future Immigration Court hearings.

9. PENALTIES.

You must answer all questions on Form EOIR-42B truthfully and submit only genuine documents in support of your application. **You will be required to swear or affirm that the contents of your application and the supporting documents are true to the best of your knowledge.** Your answer to the questions on this form and the supporting documents you present will be used to determine whether your removal should be cancelled and whether you should be permitted to adjust your status. Any answer you give and any supporting document you present may also be used as evidence in any proceeding to determine your right to be admitted or readmitted, re-enter, pass through, or reside in the United States. Your application may be denied if any of your answers or supporting documents are found to be false.

Presenting false answers or false documents may also subject you to criminal prosecution under 18 U.S.C. section 1546 and/or subject you to civil penalties under 8 U.S.C. section 1324c if you submit your application knowing that the application, or any supporting document, contains any false statement with respect to a material fact, or if you swear or affirm that the contents of your application and the supporting documents are true, knowing that the application or any supporting documents contain any false statement with respect to a material fact. If convicted, you could be fined up to \$250,000, imprisoned for up to ten (10) years, or both. 18 U.S.C. sections 1546(a), 3559(a)(4), 3571(b)(3). If it is determined you have violated the prohibition against document fraud and a final order is entered against you, you could be subject to a civil penalty up to \$2,000 for each document used or created for the first offense, and up to \$5,000 for any second, or subsequent offense. In addition, if you are the subject of a final order for violating 8 U.S.C. section 1324c, relating to civil penalties for document fraud, you will be removable from the United States.

10. PAPERWORK REDUCTION ACT NOTICE.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can easily be understood, and which impose the least possible burden on you to provide us with information. Often, this process is difficult because some immigration laws are very complex. The reporting burden for this collection of information is computed as follows: (1) learning about the form, 50 minutes, (2) completing the form, 2 hours, and (3) assembling and filing the form, 3 hours, for an average of 5 hours, 50 minutes per application. If you have comments regarding the accuracy of this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, you may write to the U.S. Department of Justice, Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 20530.