

When a U.S. citizen, residing in the United States, marries an alien, the alien is eligible to receive a green card **based** on that **marriage**. If you are a U.S. citizen, your spouse is considered an "immediate relative" and he or she may apply for permanent residency. In order to be granted permanent residency, your spouse's relationship with you must be established and your spouse must be admissible to the United States under the immigration law. Also, the marriage must be bona fide, not merely a sham to get the alien a green card. The INS takes fraudulent marriage seriously and you will be asked to provide supporting documents to show that the marriage is valid.

If both the *U.S. Citizen* and Foreign National Spouse are in the U.S., the U.S. Citizen may apply for the Foreign National Spouse's Permanent Residence through Adjustment of Status with the USCIS.

### Alien-Spouse Visa

If a U.S. citizen marries an alien abroad or in the United States, an I-130 petition must be filed after the marriage to begin the immigration process for the alien spouse. This can be filed either with the Immigration and Naturalization Service (INS) in the United States, or, under certain circumstances, at U.S. embassies or consulates abroad. U.S. embassies and consulates have differing policies on approving I-130s and should be individually contacted about the availability of this service. Many posts have their own web pages which include this information and which can be accessed through the U.S. Embassy and Consulate links page Prior to departure from this country, the U.S. citizen should contact the INS or appropriate foreign service post to ascertain exactly what documents will be necessary to file the immigrant petition for a new spouse. For more information about this option, see the Bureau of Consular Affairs' brochure *Tips for U.S. Visas: Family-Based Immigrants*. For more information on how to arrange a legally valid marriage abroad, see the Office of Citizens Consular Services' brochure.

### Fiance Visa

U.S. citizens may file an I-129F petition with INS for the issuance of a K-1 fiance(e) visa to an alien fiance. A citizen exercising this option must remain unmarried until the arrival of the fiance in the U.S., and the wedding must take place within three months of the fiance's arrival if he/she is to remain in status. Also, the alien and U.S. citizen must have met personally at least once in the two years before the petition was filed. Please note: Legal permanent residents (green card holders) may not file petitions for fiance visas. They must marry abroad and then file an I-130 petition for the immigration of a new spouse. Please note: Your fiance may enter the United States only one time with a fiance visa. If your fiance leaves the country before you are married, your fiance may not be allowed back into the United States without a new visa.

### How Apply

You must go through a multi-step process to become an immigrant. Under U.S. immigration law, immigrants are persons lawfully admitted for permanent residence in the United States. You must file the following forms and documents with the INS to begin the process:

#### **Alien-Spouse Visa**

- U.S. citizen files a Form I-130 Petition for Alien Relative on the

spouse's behalf (\$110)

- If the alien is already in the United States, he/she files I-485 application for adjustment of status to permanent resident (green card holder) (\$220)
- You both file biographical forms G-325A (no fee)
- If already in United States, the alien files Form I-765 Application for Employment Authorization (w/signature card and \$100 filing fee) This allows the alien to work while waiting for the green card interview.
- Two color photos of both husband and wife taken within 30 days of the date of the I-130 petition
- Certified copy of marriage certificate
- U.S. citizen's proof of citizenship (e.g., passport, birth certificate)
- Certified copies of documents that terminated previous marriages such as a divorce decree
- Sworn affidavits from friends and relatives to prove validity of marriage
- Filing fees

### **After these forms are filed with the INS, the INS will**

- Process and investigate the information and documents submitted
- Schedule an interview (this could take from two months to over two years, depending on the INS jurisdiction)  
Examples of questions you can expect from the interview:
  - What color is your spouse's toothbrush?
  - What color is the carpeting in your living room?

### **Examples of documents that you should be prepared to produce**

- Wedding photos
- Tax returns
- Joint bills
- Joint leases
- Joint bank accounts
- Fiance Visa

### **Fiance Visa**

- U.S. citizen files I-129F Petition for Alien Fiance (\$95) Please note: Once the alien is granted the K-1 visa and enters the United: States, the marriage must occur within 90 days.
- You both file biographical forms G-325A (no fee)
- Alien must undergo medical examination
- You both file evidence that the two parties have physically met within the past two years
- Alien files Affidavit of Support I-134 (no fee) and I-864 (no fee)
- Two color photos of both husband and wife taken within 30 days of the date of the I-129F petition
- U.S. citizen's proof of citizenship (e.g., passport, birth certificate)
- Certified copies of documents that terminated previous marriages such as a divorce decree
- Sworn affidavits from friends and relatives to prove validity of marriage
- The spouse files I-485 application for adjustment of status to permanent resident (green card holder) (\$220)

### **Recent Changes**

Before 1986, when a citizen married a foreigner and petitioned for

the spouse, the spouse was granted permanent residence fairly.