



SOUND IMMIGRATION

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**Re: An immigrant remain in valid resident status
so long as her Form I-751 petition us under
review**

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To whom it may concern:

This document explains how, under United States immigration law, an individual remains in valid status as a lawful permanent resident of the United States while her Form I-751 petition remains pending with the immigration agency.

“Conditional” status as a lawful permanent resident (C-LPR) is granted when an immigrant becomes a U.S. resident based on marriage to a citizen and the couple has been married less than two years. 8 U.S.C. § 1186a(a)(1)). The C-LPR is issued a “green card” (Form I-551) with an expiration date two years from the date of issuance. In the 90-day period leading up to the expiration date on that card, the C-LPR is required to file a Form I-751, Petition to Remove Conditions on Residence.

Once the Form I-751 has been filed with U.S. Citizenship and Immigration Services (USCIS), the immigrant remains in valid resident status so long as the Form I-751 remains under review.

When the C-LPR files the Form I-751, he or she is issued a receipt notice. Under current USCIS policy, the notice indicates that it serves as proof that the individual remains in resident status 18 months from the date of issuance. (Previously, the letter gave a 12-month extension date). **Government agencies**

and employers often mistakenly believe that the expiration date on the I-751 receipt notice denotes the date on which an immigrant's legal status expires – it does not.

Under federal regulations, an immigrant's status as conditional resident is extended "until such time as the director [of USCIS] has adjudicated the petition." 8 C.F.R. § 216.4(a). The individual remains a resident until either her petition is approved – in which case she becomes a non-conditional resident – or the petition is denied. 8 U.S.C. §§ 1186a(c)(3)(B), (c)(3)(C). **So long as the I-751 remains pending, the immigrant remains in valid status.**

An individual can demonstrate that her Form I-751 remains pending. USCIS shows the current status of immigration petitions at <https://egov.uscis.gov/casestatus/>. To demonstrate the current status of a Form I-751, an individual would simply visit this website and input the number from the receipt she received after filing the Form I-751. These two documents – the Form I-751 filing receipt and a print-off of her online case status – definitively show that the individual remains in valid status as a conditional resident.

Under current processing times, it is very common for a Form I-751 to take 18 months or longer to be processed. **After the expiration of 12 or 18-month period on the I-751 receipt, an immigrant may have no means of receiving official documentation of her residential status.** An immigrant is sometimes able to request an extension stamp while her Form I-751 by making an appointment at a local USCIS office. *However, many USCIS local offices often have no appointments available for this purpose, and others have altogether ceased processing such requests.* Hence, the immigrant's only means of proving her status may be with the receipt notice and case status report described above.

Failing to recognize a conditional resident's valid immigration status may run afoul of federal and state anti-discrimination laws. As described above, an immigrant remains in valid residential status so long as her Form I-751 remains pending. Failing to recognize such an individual's lawful immigration status may violate prohibitions on national origin discrimination and other prohibitions.

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