

Lifting the Conditions of Residency

Conditional residency is often called the two year green card because, as the name suggests, that's how long it's valid. The easiest way to know if you have conditional residence is to look at the dates on your green card. If your card is good for only two years, then you are a conditional resident. Before the end of your conditional residency, you must apply for a regular green card, which is good for ten years. Otherwise, you will be in the United States unlawfully.

Who Gets Conditional Residence?

If you get a green card based on a marriage that is less than two years old, you will get conditional residency. This applies to both people marrying U.S. citizens and lawful permanent residents. Most people married to lawful permanent residents must wait more than two years to get their green cards so they don't often get conditional residency, but it still happens.

Spouses

Anyone who gets lawful permanent residency based on a marriage less than two years old on the day the residence is granted receives conditional residency. For example, suppose Mr. and Mrs. Smith marry on January 1, 2017 and then Mr. Smith applies for his wife to get lawful permanent residence. If Mrs. Smith gets her green card on December 31, 2018, the marriage will be less than two years old on the day Mrs. Smith gets her residence. Meaning, she will get conditional residence and her green card will be valid for only two years. Alternatively, if Mrs. Smith receives residence on January 1, 2019, then she will get a lawful permanent residence and a ten year green card because her marriage is at least two years old on the day her application is approved.

Step Children

Conditional residence also directly affects anyone who immigrated to the United States as a step child. Specifically, if a step child gets a green card based on a parent's marriage and that marriage is less than two years old on the day that the residence is granted, then that step child gets a conditional card. A step child's conditional residence is also valid for only two years.

So, let's suppose Mr. Smith applies not only for Mrs. Smith, but also for her children who are his step children as of the marriage on January 1, 2017. But. If his step children get lawful permanent residency on December 31, 2018, then these step children will get conditional resident cards because the marriage hasn't lasted two years yet. However, if Mr. Smith's step children get their residency on January 1, 2019, they will get lawful permanent residency and ten year green cards because his marriage to their mother is at least two years old.

Getting the 10-Year Green Card: Lifting the Conditions of Residency

The critical difference between conditional residency and lawful permanent residency is that when an immigrant's two year conditional resident card expires, so does that immigrant's legal status. In other words, when that card expires, all of a sudden the immigrant has to worry about being here illegally. This is not true for people with regular ten year cards. Conditional residents must go through a process called "lifting the conditions of residency" to get their ten year card.

Joint Petition

There are four ways an immigrant can lift the conditions of residency. The most common way is through something called "the joint petition". In our example, if Mr. and Mrs. Smith are still married, they can file a joint petition as a couple to lift the conditional residency of Mrs. Smith and her children. This is something that step children have to worry about, too.

Mr. and Mrs. Smith have to gather evidence that they still have a marriage. Commonly people use joint income tax returns, leases with both names, bills such as cell phone and cable with both names, bank accounts with both names and birth certificates if the couple has had children. If Mrs. Smith is the beneficiary of Mr. Smith's life insurance policy or covered under his health insurance policy that will

also prove that they have a good faith marriage. Another common example is showing that both Mr. and Mrs. Smith are listed on the deed and mortgage to their home.

In addition to gathering evidence, there is an immigration form that needs to be completed and a fee to pay. For immigrants who can show that they are very low income, Immigration may waive the fee.

WARNING: The timing is really important with joint petitions. Immigration must receive Mr. and Mrs. Smith's joint petition **no more than three months before** Mrs. Smith's conditional residency card expires, **but not after it expires**.

Individual Petition

But, say for a moment that all does not go well for Mr. and Mrs. Smith's marriage. There are three ways that conditional residents can independently lift the conditions of residency. In other words, Mrs. Smith doesn't necessarily need Mr. Smith to file a joint petition with her.

First, Ms. Smith could lift the conditions of residency by showing that she entered into her marriage with Mr. Smith in good faith but that the marriage ended in divorce or annulment. Second, Mrs. Smith can lift the conditions by showing that she is a victim of domestic violence or extreme cruelty. No immigrant spouse or child has to stay with an abusive spouse or step parent. Finally, Mrs. Smith can lift the conditions by showing that returning to her home country would result in extreme hardship to her. If Mrs. Smith applies to lift the conditions of residency under one of these last three ways; she can apply at any time before the two year card expires. In other words, she does not have to wait until three months before her residency card expires.

After Mailing a Petition

When an immigrant mails in the petition to lift the conditions of residency, Immigration will send a receipt notice and shortly afterwards, a notice for biometrics. Immigrants must share fingerprints and a face scan to confirm that no criminal convictions could stop Immigration from lifting the conditions. Sometimes Immigration will also ask for an interview, and sometimes not.

If Immigration denies a petition to lift the conditions of residency, the immigrant most likely will be put into deportation. However, an immigration judge will take a fresh look at the petition in something called a de novo review. It might take a while because the courts are often so backed up, but an immigrant can absolutely ask an immigration judge to take a second look.

Talk to a Good Immigration Attorney

Like any process with immigration, lifting the conditions of residency can be confusing. If you're worried, talk to a competent immigration attorney. If you don't know how to find a good lawyer, check out our page about [how to shop for an immigration attorney](#). Catholic Charities Milwaukee keeps a referral list of good immigration attorneys, which you can find on this page.

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[Green Cards](#) [Options for Status, Visas, Permits & Papers](#) [Immigration](#)

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Table of Contents

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