

IMMIGRATION EDGE



ATTY. DANIEL HANLON

USCIS announces H-1B quota still open for FY 2010!

overall economic conditions, the situation is different this year, with the USCIS indicating that H-1B numbers remain available without any hint as to when the quota caps will be reached.

Employers seeking to hire an H-1B professional must establish that the prospective employee: (1) has a bachelor's degree; (2) seeks to come to the United States to perform services in a position requiring a bachelor's degree or higher for entry into the position; and that (3) the degree is directly related to the nonimmigrant's field of endeavor. The U.S. employer or sponsor must demonstrate a need for a worker and attest that insufficient domestic labor is available to fill the need. Of course, the U.S. employer must also establish his ability to pay the "prevailing wage" for the position.

If the intended worker is overseas, he may obtain an H-1B visa from the U.S. Embassy upon USCIS approval of a Petition in the U.S. A nonimmigrant visitor in the United States, for instance on a B-2 visa, may apply for "change of status" from visitor to H-1B professional worker. The new status will be indicated on the person's I-94, but is not a travel document. In order to travel and reenter the United States in H-1B status, a visa must be obtained

at a U.S. Embassy or consulate abroad.

The number and types of occupations that will qualify people for classification as H-1B professional workers are constantly expanding. With the development of so many new highly specialized occupations in the high-tech industries, more and more H-1Bs are necessary to fill the demand, and to maintain the status quo for more traditional occupations such as accountants and engineers.

Although certain categories of workers are exempt from the H-1B cap, there is no doubt that the 65,000 H-1B visas available for most jobs in "specialty occupations" will be used up by mid-Summer. With that in mind, employers desiring to hire professional workers under the H-1B category would do well to file their Petitions early, or risk being shut-out until April 1, 2010 when the quota reopens for FY 2011.

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MINDING YOUR FINANCES



ATTY. RAYMOND BULAON

Can bankruptcy avoid or delay foreclosure?

are included in your Chapter 13 repayment plan. In most cases, most debts are drastically reduced (example: credit cards and other unsecured debts). The end result is lower and more affordable debt payments every month. By consolidating debts, most people find that it becomes easier to make their mortgage payments. To qualify, you need to have enough income to cover your regular mortgage payments plus your monthly Chapter 13 plan payment.

Chapter 7, on the other hand, will not stop a foreclosure but it can delay the process by several months. This can give you additional time to work things out with your lender. If you have already decided to let your house go, you can live in your home for free during at least some of the months that your bankruptcy case is pending and thus allowing you to save money that you need for moving expenses. Where a homeowner faces after-foreclosure liability (example: liability for a second mortgage loan on the property after the first trust deed holder forecloses), Chapter 7 can also wipe out such liability. (Note: Most homeowners are not aware that they can still be liable for an unpaid 2nd mortgage loan even after foreclosure. The law provides some protection against this in certain cases but this is NOT always the case. See a competent bankruptcy lawyer for advice if you are one of the homeowners I described above.)

Lastly, in cases where the

borrower has possible debt-cancellation income which could result in a tax liability (example: a bank forgives a debt otherwise collectible against the borrower but reports the cancelled amount as "income" on a 1099), Chapter 7 bankruptcy may be your best way to get out from under your mortgage debt and tax liability at the same time. This is because a debt that is wiped out by a bankruptcy is excluded from income and is not taxed. If the expected cancellation-of-debt income is substantial, this alone could be a good reason to file Chapter 7. Recent laws were passed to protect most homeowners from this tax liability but in certain cases, these laws do not apply (example: the loan was secured by rental property). Tax laws are complex and situations vary so if you are in doubt as to possible tax liability in your case, seek the advice of a competent tax professional.

If you want to explore the possible benefits of Chapter 13 or Chapter 7 bankruptcy protection, we would be glad to help you evaluate your options. To schedule a free office consultation, call us Toll-Free at 1-866-477-7772. We have offices in Glendale, Cerritos and West Covina.

None of the information herein is intended to give legal advice for any specific situation. Atty. Ray Bulaon has successfully helped over 4,000 clients in getting out of debt. For a free attorney evaluation of your situation, please call Ray Bulaon Law Offices at TOLL FREE 1-866-477-7772.

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BARRISTER'S CORNER



ATTY. KENNETH URSUA REYES

What to do with conditional Greencard status in troubled marriages

permanent residency. However, although the opportunity to obtain permanent residency arises in such situations, one must be aware of and comply with procedures in existence to obtain such status. Due to concerns that persons were becoming married to United States citizens merely to obtain permanent residence status, a two-step procedure under the Immigration Marriage Fraud Amendments of 1986 (IMFA) was set up to ensure such status was given to

those only in marriages that are bona-fide and not entered into simply for immigration purposes.

Under step one of the procedure, if a person is petitioned by his/her U.S. citizen spouse within 24 months after becoming married, that person is given only conditional permanent residence. Such conditional permanent residence status lasts for two years from the date on which it is granted.

Step two of the procedure involves the removal of the

conditional label to permanent residence status. Removal of the conditional label is initiated by filing an I-751 Joint Petition to Remove Condition to Permanent Residence ("Joint Petition"). The Joint Petition provides an opportunity for the United States Citizenship and Immigration Services ("USCIS") to inquire as to the legitimacy of the marriage after conditional permanent residence is granted.

Accordingly, documentation evidencing that the marriage was entered into for bona-fide reasons should be submitted as part of the Joint Petition. The Joint Petition must be filed with the USCIS service center in the 90 days immediately prior to the second anniversary of the granting of conditional permanent residence.

Typically, upon the filing of the Joint Petition, a one-year

extension of the conditional permanent residence is granted. The extension affords the USCIS time to schedule an interview with the person seeking permanent residence, and to make a determination as to whether unconditional permanent residence will be granted for a ten-year period. In cases in which documentation submitted as part of the Joint Petition

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