



I-864 Affidavit of Support Obligations

The following explains a joint sponsor's financial obligations under the I-864 Affidavit of Support for the foreign national who is applying for permanent resident status.

An I-864 Affidavit of Support creates a legally binding contract. The I-864 may be enforced by a federal, state, or local government agency against the sponsor. The I-864 may also be enforced against the sponsor by the sponsored foreign national.

Enforcement by a Government Agency

The Affidavit of Support allows government agencies to seek repayment from the joint sponsor for certain types of local, state, or federal "means-tested" public benefits that are supplied to the foreign national. Federal means-tested public benefits do not include all types of welfare. Benefits such as food stamps, Medicaid, and supplemental security income have all been designated as "means-tested." Presumably, these benefits would be covered by the I-864. The following are examples of programs that are not included: emergency Medicaid, short-term noncash emergency relief, and student assistance under the Higher Education Act. Presumably, these benefits would not be covered.

If any government agency were to seek repayment from the foreign national for means-tested public benefits, they would first look to the foreign national for repayment. If the foreign national could not repay the benefits, then the government agency could attempt to collect repayment from you and the primary sponsor. As in any collections situation, this could include the agency filing an action in court against you for repayment.

HOWEVER: To the best of my knowledge, the state of Connecticut has been the only government entity to enforce an I-864. My understanding is that Connecticut attempted to do so for a short period of time, but has since stopped. It seems that most federal, state, and local agencies simply don't have any procedures in place to identify situations in which the I-864 is implicated and initiate enforcement actions when appropriate.

Enforcement by the Sponsored Foreign National

Under federal statute, the I-864 may also be enforced by the foreign national against the joint sponsor for support at 125% of the federal poverty guidelines. That means that the foreign national would have to sue the joint sponsor in court.

It is conceivable that if the foreign national brought an appropriate action against the joint sponsor, the joint sponsor could be held liable to support them at 125% of the poverty guidelines for an *unspecified* period of time. Per current guidelines, that figure is \$18,387 for a household of two.

There are only a handful of cases published where the sponsored foreign national has sued the sponsor.

(And all of these are one spouse suing another spouse. I have not seen or heard of a court case in which the foreign national sued his or her joint sponsor).

Liability for the Sponsored Foreign National's Personal Debts

Other than means-tested public benefits discussed in section 1, you are not liable for the sponsored foreign national's personal debts. For example--- Duke University Medical Center cannot sue the joint sponsor for payment of the sponsored foreign national's medical bills; visa cannot sue the joint sponsor for the payment of the sponsored foreign national's credit card bills; AT&T cannot sue the joint sponsor for the payment of the sponsored foreign national's overdue cell phone bill; etc.

Termination of the Sponsor's Obligations under the I-864

The obligation of the sponsor may terminate in the following ways:

- 1) the foreign national becomes a U.S. citizen;
- 2) the foreign national has worked, or can be credited with, 40 qualifying social security work quarters (roughly 10 years of work);
- 3) the foreign national is formally found to have abandoned or given up her green card;
- 4) the foreign national obtains a new green card under a different basis; then the new sponsor is subject to the support requirements (extremely rare);
- 5) the foreign national dies; or
- 6) the sponsor dies.

The period of time that the sponsor could be held liable under the I-864 cannot be determined with specificity because none of the conditions for termination are under the sponsor's control. For example, the sponsor cannot force the foreign national to become a U.S. citizen or to work for 10 years.

Please note that should you agree to act as a Sponsor, you are required to notify USCIS within 30 days of any address change by filing Form I-865.

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