

# U.S. Immigration & K1 Fiancé Visa

#### What is a Fiancé(e) Visa?



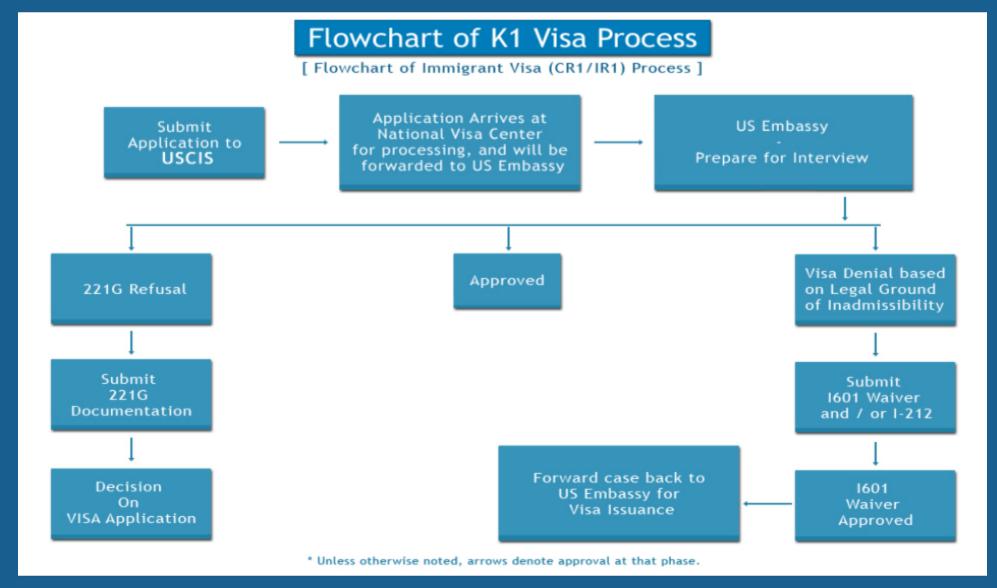
 U.S. Immigration Sections 101(a)(15)(k) and 214(d) of the INA provide for issuance of a Fiancé(e) Visa otherwise known as K1 Visa.

- File Form I-129F with U.S.
   Citizenship and Immigration
   Services (USCIS).
- Must establish with satisfactory evidence that it is a bona fide relationship.



### What is the Fiancé(e) Visa Process?





### What are the Requirements to Get the I-129F Approved?



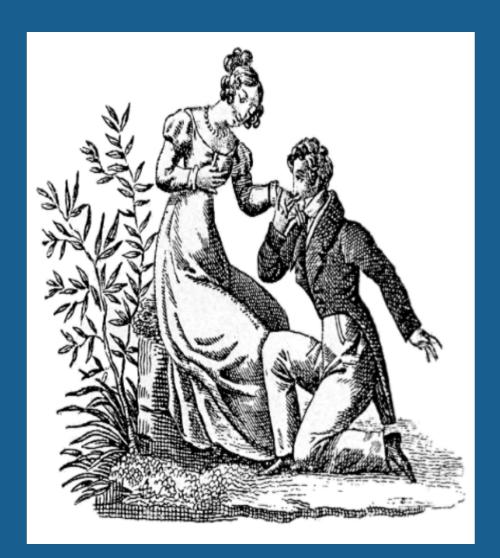
- Petitioner is a U.S. Citizen
- Couple have previously met in person within two years of the date of filing
- Have a bona fide intention to marry
- Couple are legally able and actually willing to conclude a valid marriage in the U.S. within 90 days after the fiancée's arrival



#### K1: Previous Meeting



- INA 214(d): The couple met personally within two years prior to the filing.
- Waived if compliance would:
  - Extreme hardship to the petitioner.
  - Violate strict and long established customs of the fiance(e)'s foreign culture or social practice.
  - International political dangers, health reasons, and financial burdens may constitute extreme hardship.



#### K1 Visa: Freedom to Marry



- Couple must be free to marry and have terminated any prior marriages.
- Couple must intend to enter into a valid marriage within 90 days immediately following the fiancé(e)'s entry into the U.S.
- Local marriage ceremony not registered or legal under local country law is NOT valid.
- Affidavits from local country required to establish fiancé(e)'s freedom to marry.

#### K1 Visa: Notice of Action



200	COUNTY I		UP TO	2 4 1 6 E	TO COLLEGE
SRC-		PETITIO	1129F N FOR FIANCE(E)	1000	
November 26, 2002	PRIORITY DATE	MATTHONESE	STEPHEN		A Number
March 13, 2003	PAGE 1 of 1	BENEFICIARY	IZABETH		
	74///		Notice Type: Valid from 03	Approval /13/2003 t	
ORLANDO PL		Note	he validity is	4 months	
The NVC now proceess all after receiving the path send the patition to the you will receive motifica motification letter will consulted where your peri If in hee heep more than NVC that your patition of a lower tages Receivin 85 automated response system 7810 FD89 18 NVC A VISA 9	LOS From 1963. The SW U.S. Edihamay or Close sion by wall when MY provide you with a to tion has been send. from weaks minor you a hear forwarded over medard Time. You will I so receive informat	C will open a to whate where your per I has sent your per hitque number far y remain, planes dail h need to enter it los us your perati	es recard with year p inheals) will be ince mixion to the U.S. En our case and the prime erous notice and you. eve at (803) 33x-070 e [MH ramelpt number	eviewed for hi	alate. The U.S. Debasey or
Please see the additional is 1994IOBATION & MAI	iformation on the bac TERR	k. You will be not	tified separately about	any other case	s you filed.

### What Happens After the I-129F is Approved?



- After approval, first NVC, and then sent for visa interview at U.S. Consulate.
- U.S. Consulate will notify applicant and fiance
   (e) when ready to proceed.
- K-1 Instructions Package 3.
- K-1 Appointment Package 4.

### Can the Fiance(e)'s Children Come to the U.S.?

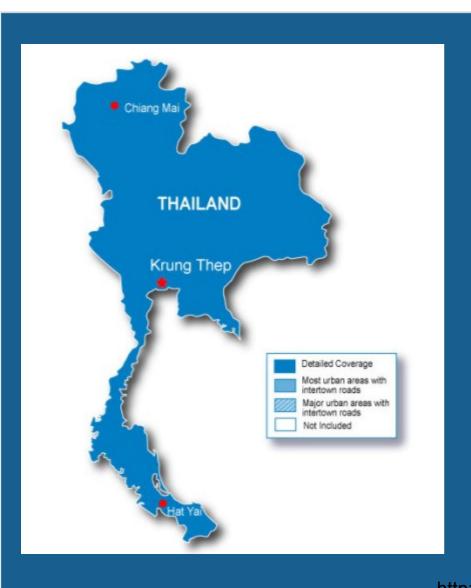


- Children under 21, unmarried may be accorded K-2 Visa status.
- Follow-to-join: K-2 Visa is one year from the date of issuance of the K-1 Visa and must adjust before 21 or lose eligibility
  - An immediate relative or second preference petition is required for the dependent thereafter



### How Long Does it Take to Get a K1 Visa?





- Form I-129F takes 3-6
  months from the time the
  petition is filed with
  (USCIS)
- U.S. Consulate takes 3-4 months once the file in the designated country
- Depending on the country your fiancé is
   http://wwwfrogm.pmtotal time 4-7 months

### What are the Advantages of Obtaining an K1 Visa?



- K1 Visas are processed a few months faster than I-130.
- Marriage in the U.S.
- Filing fee.
- Adjustment in the U.S.

### What to Bring to the Consular Interview?





- Evidence of relationship
- Police record
- Medical exam
- Dissolution of Prior Marriage

- Proof of payment of visa fee
- Passport
- Original birth certificate
- Full copy of submission

### What Happens at the Interview?





- One on one interview with the Consular Officer
- Present evidence
- Consular Officer will ask questions to determine if there's sufficient evidence to approve case
- Approve, NOIR, 221(g) Denial, Administrative Proceedings, Inadmissible

### What is a 221(g) Denial?



- 221(g) is a section of the INA and it simply means the consular officer is not satisfied with the quality or quantity of the documents you have submitted to prove your relationship.
- The officer might consider your evidence to be lacking in substance or honesty to prove that you have a bona fide relationship with the person that wants to sponsor you.

#### 221(g) (Cont.)



- Factual inconsistencies; discrepancies made in affidavit and application
- Multiple petitions.
  - International Marriage Broker Regulation Act (IMBRA) signed into law January 05, 2006
  - If the petitioner has filed two or more K-1 visa petitions at any time in the past, or previously had a K-1 visa petition approved within two years prior, then must request a waiver.
- Children not named

#### 221(g) (Cont.)

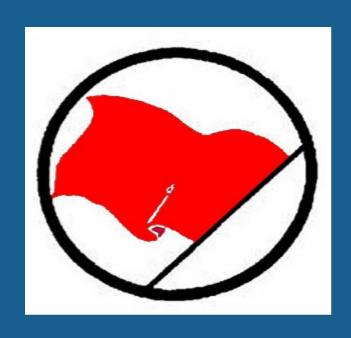


- Evidence lacking in quantity and/or quality
  - Age difference
  - Religion/Culture
  - Language
  - Termination of Prior Relationship



### What is Administrative Processing?

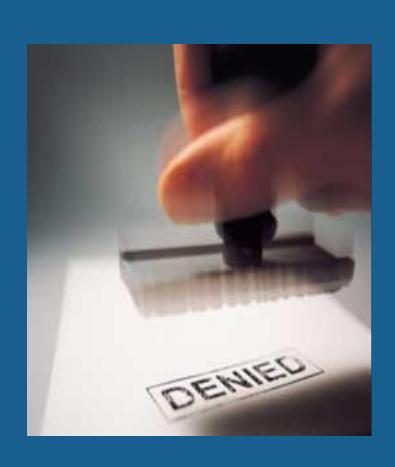




- Case is not approvable but does not require more evidence
- Red flagged due to suspicion of immigration fraud
- Secondary review which warrants further investigation

## Does Administrative Processing mean a US Visa is Denied?





- Delayed for weeks or months until a final determination is made or sent to USCIS to revoke
- In practice, could be approved with meaningful evidence of relationship

### What Does Inadmissibility Mean?

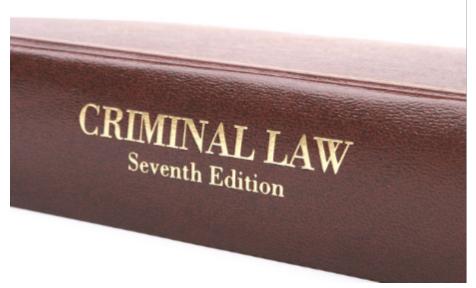


- Under Section 212(a) of INA various past conduct may render them inadmissible
- Legal Grounds of Inadmissibility:
  - Health Related
    - HIV, TB, Syphilis, and Gonorrhea
  - Criminal and Related Grounds
    - Crimes involving moral turpitude
  - Multiple Criminal Convictions
  - Controlled Substance Traffickers
  - Prostitution and Commercialized Vice
  - Fraud and Misrepresentation
  - Prior Visa Violators (overstays)

#### Waivers for Inadmissibility



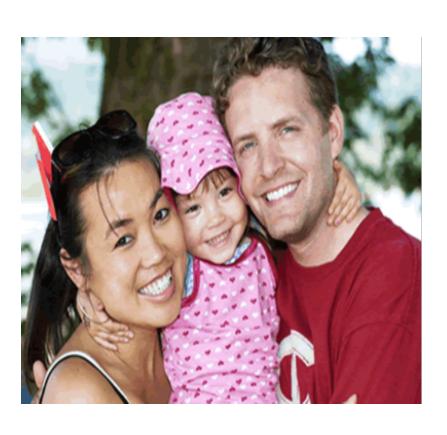




- Health Related Yes
- Criminal and Related Grounds
  - Crimes involving moral turpitude – Depends
- Controlled Substance
   Traffickers Depends
- Prostitution and Commercialized Vice – Yes
- Fraud and Misrepresentation –
   No
- Prior Visa Violators Yes

### What is Extreme Hardship in an I-601 Waiver?





- Extreme hardship to U.S. citizen petitioner
  - Health issues such as availability and quality of treatment
  - Financial issues due to loss of employment, business, income
  - Educational opportunity
  - Personal issues such as disruption of family ties, separation, ties to community
- Special issues such as http://www.ctrlegacultural, language, religious

#### Questions







#### CTR & Associates Ltd.

Exchange Tower, 42<sup>nd</sup> Floor 388 Sukhumvit Road, Bangkok +66 (0)2 302 1448 info@ctrlegal.com