

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-208, §381(a)(2), inserted at end “Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.”

Pub. L. 104-208, §381(a)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: “The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this subchapter.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. C, title III, §381(b), Sept. 30, 1996, 110 Stat. 3009-650, provided that: “The amendments made by subsection (a) [amending this section] shall apply to actions filed after the date of the enactment of this Act [Sept. 30, 1996].”

§ 1330. Collection of penalties and expenses

(a) Notwithstanding any other provisions of this subchapter, the withholding or denial of clearance of or a lien upon any vessel or aircraft provided for in section 1221, 1224, 1253(c)(2), 1281, 1283, 1284, 1285, 1286, 1321, 1322, or 1323 of this title shall not be regarded as the sole and exclusive means or remedy for the enforcement of payments of any fine, penalty or expenses imposed or incurred under such sections, but, in the discretion of the Attorney General, the amount thereof may be recovered by civil suit, in the name of the United States, from any person made liable under any of such sections.

(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the “Immigration Enforcement Account”. Notwithstanding any other section of this subchapter, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

(2) The amounts described in this paragraph are the following:

(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

(B) Civil penalties collected under sections 1229c(d), 1324c, 1324d, and 1325(b) of this title.

(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this subchapter. Such activities include—

(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded

at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104-134.

(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.

(June 27, 1952, ch. 477, title II, ch. 8, §280, 66 Stat. 230; Pub. L. 101-649, title V, §542(a), Nov. 29, 1990, 104 Stat. 5057; Pub. L. 103-416, title II, §219(s), Oct. 25, 1994, 108 Stat. 4317; Pub. L. 104-208, div. C, title III, §§308(g)(4)(C), 382(a), Sept. 30, 1996, 110 Stat. 3009-623, 3009-651.)

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REFERENCES IN TEXT

Sections 203(b) and 543(a) of the Immigration Act of 1990, referred to in subsec. (b)(2)(A), are sections 203(b) and 543(a) of Pub. L. 101-649. Section 203(b) of the Act amended section 1281 of this title. Section 543(a) of the Act amended sections 1221, former 1227, 1229 (now 1224), 1284, 1285, 1286, 1287, 1321, 1322, and 1323 of this title.

Section 605 of Public Law 104-134, referred to in subsec. (b)(3)(C), is section 101[(a)] [title VI, §605] of Pub. L. 104-134, title I, Apr. 26, 1996, 110 Stat. 1321, 1321-63, which is not classified to the Code.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, §308(g)(4)(C), substituted “1224, 1253(c)(2)” for “1227, 1229, 1253”.

Subsec. (b). Pub. L. 104-208, §382(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Notwithstanding section 3302 of title 31, the increase in penalties collected resulting from the amendments made by sections 203(b), 543(a), and 544 of the Immigration Act of 1990 shall be credited to the appropriation—

“(1) for the Immigration and Naturalization Service for activities that enhance enforcement of provisions of this subchapter, including—

“(A) the identification, investigation, and apprehension of criminal aliens,

“(B) the implementation of the system described in section 1252(a)(3)(A) of this title, and

“(C) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States; and

“(2) for the Executive Office for Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 1252 of this title.”

1994—Subsec. (b)(1)(C). Pub. L. 103-416 substituted “maintenance” for “maintainance”.

1990—Pub. L. 101-649 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(g)(4)(C) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

Pub. L. 104-208, div. C, title III, §382(c), Sept. 30, 1996, 110 Stat. 3009-651, provided that: “The amendments made by this section [amending this section and section 1356 of this title] shall apply to fines and penalties collected on or after the date of the enactment of this Act [Sept. 30, 1996].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-649, title V, §542(b), Nov. 29, 1990, 104 Stat. 5057, provided that: “The amendment made by subsection (a) [amending this section] shall apply to fines and penalties collected on or after January 1, 1991.”

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

PART IX—MISCELLANEOUS

§ 1351. Nonimmigrant visa fees

The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided*, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis. Subject to such criteria as the Secretary of State may prescribe, including the duration of stay of the alien and the financial burden upon the charitable organization, the Secretary of State shall waive or reduce the fee for application and issuance of a nonimmigrant visa for any alien coming to the United States primarily for, or in activities related to, a charitable purpose involving health or nursing care, the provision of food or housing, job training, or any other similar direct service or assistance to poor or otherwise needy individuals in the United States.

(June 27, 1952, ch. 477, title II, ch. 9, §281, 66 Stat. 230; Pub. L. 89-236, §14, Oct. 3, 1965, 79 Stat. 919; Pub. L. 90-609, §1, Oct. 21, 1968, 82 Stat. 1199; Pub. L. 105-54, §2(a), Oct. 6, 1997, 111 Stat. 1175.)

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REFERENCES IN TEXT

The Headquarters Agreement, referred to in text, is set out as a note under section 287 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1997—Pub. L. 105-54 inserted at end “Subject to such criteria as the Secretary of State may prescribe, including the duration of stay of the alien and the financial burden upon the charitable organization, the Secretary of State shall waive or reduce the fee for application and issuance of a nonimmigrant visa for any alien coming to the United States primarily for, or in activities related to, a charitable purpose involving health or nursing care, the provision of food or housing, job training, or any other similar direct service or assistance to poor or otherwise needy individuals in the United States.”

1968—Pub. L. 90-609 struck out provisions fixing statutory fees for specified immigration and nationality benefits and services rendered, including those pertaining to immigrant visas, reentry permits, adjustments of status to permanent residence, creation of record of admission for permanent residence, suspension of deportation, extension of stay to nonimmigrants, and application for admission to practice as attorney or representative before the Service.

1965—Subsec. (a). Pub. L. 89-236, §14(a), (b), designated opening provision beginning “The following fees shall be charged:” and ending with the end of par. (7) as subsec. (a) and substituted reference to section 1154 of this title for sections 1154(b) and 1155(b) of this title in par. (6).

Subsec. (b). Pub. L. 89-236, §14(c), added subsec. (b).

Subsec. (c). Pub. L. 89-236, §14(d), designated closing provision consisting of the paragraph beginning “The fees for the furnishing” as subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-54, §2(b), Oct. 6, 1997, 111 Stat. 1175, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 6, 1997].”

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

SURCHARGE FOR PROCESSING MACHINE-READABLE NONIMMIGRANT VISAS

Pub. L. 113-160, §2, Aug. 8, 2014, 128 Stat. 1853, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of State, not later than January 1, 2015, shall increase the fee or surcharge authorized under section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) by \$1.00 for processing machine-readable nonimmigrant visas and machine-readable combined border crossing identification cards and nonimmigrant visas.

“(b) DEPOSIT OF AMOUNTS.—Notwithstanding section 140(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note), the additional amount collected pursuant [to] the fee increase authorized under subsection (a) shall be deposited in the general fund of the Treasury.

“(c) SUNSET PROVISION.—The fee increase authorized under subsection (a) shall terminate on the date that is 5.5 years after the first date on which such increased fee is collected.”

Similar provisions were contained in the following prior appropriations acts: