

INA: ACT 274C - PENALTIES FOR DOCUMENT FRAUD

Sec. 274C. [8 U.S.C. 1324c]

(a) Activities Prohibited.-It is unlawful for any person or entity knowingly-

(1) to forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of this Act or to obtain a benefit under this Act,

(2) to use, attempt to use, possess, obtain, accept, or receive or to provide any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this Act or to obtain a benefit under this Act,

(3) to use or attempt to use or to provide or attempt to provide any document lawfully issued to or with respect to a person other than the possessor (including a deceased individual) for the purpose of satisfying a requirement of this Act or obtaining a benefit under this Act,

(4) to accept or receive or to provide any document lawfully issued to or with respect to a person other than the possessor (including a deceased individual) for the purpose of complying with section [274A\(b\)](#) or obtaining a benefit under this Act , or

(5) [1/](#)to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted, or

(6) (A) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) to fail to present such document to an immigration officer upon arrival at a United States port of entry.

(b) Exception.-This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of title 18, United States Code.

(c) Construction.-Nothing in this section shall be construed to diminish or qualify any of the penalties available for activities prohibited by this section but proscribed as well in title 18, United States Code.

(d) Enforcement.-

(1) Authority in investigations.-In conducting investigations and hearings under this subsection-

(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated,

(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing, and

(C) 2/ immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(2) Hearing.-

(A) In general.-Before imposing an order described in paragraph (3) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

(B) Conduct of hearing.-Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

(C) Issuance of orders.-If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (3).

(3) Cease and desist order with civil money penalty.-With respect to a violation of subsection (a), the order under this subsection shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of-

(A) not less than \$250 and not more than \$2,000 for each document that is the subject of a violation under subsection (a) 3/, or

(B) in the case of a person or entity previously subject to an order under this paragraph, not less than \$2,000 and not more than \$5,000 for each document that is the subject of a violation under subsection (a).

In applying this subsection in the case of a person or entity composed of distinct, physically

separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

(4) Administrative appellate review.-The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless either (A) within 30 days, an official delegated by regulation to exercise review authority over the decision and order modifies or vacates the decision and order, or (B) within 30 days of the date of such a modification or vacation (or within 60 days of the date of decision and order of an administrative law judge if not so modified or vacated) the decision and order is referred to the Attorney General pursuant to regulations [4/](#), in which case the decision and order of the Attorney General shall become the final agency decision and order under this subsection.

(5) Judicial review.-A person or entity adversely affected by a final order under this section may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(6) Enforcement of orders.-If a person or entity fails to comply with a final order issued under this section against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review

(7) [5/](#) Waiver by attorney general.-The Attorney General may waive the penalties imposed by this section with respect to an alien who knowingly violates subsection (a)(6) if the alien is granted asylum under section [208](#) or withholding of removal under section [241\(b\)\(3\)](#). [6/](#)

(e) [7/](#) Criminal Penalties for Failure to Disclose Role as Document Preparer.- (1) Whoever, in any matter within the jurisdiction of the Service, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits, shall be fined in accordance with title 18, United States code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.

(f) [8/](#) Falsely Make.-For purposes of this section, the term "falsely make" means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.

FOOTNOTES FOR SECTION 274C

INA: ACT 274C FN 1

FN 1 Paragraphs (5) and (6) (and conforming amendments to paragraphs (1), (2), (3), and (4)) added by [§ 212\(a\) of IIRIRA](#) .

INA: ACT 274C FN 2

FN 2 Added by [§ 220 of IIRIRA](#) (with conforming amendment to subparagraph (B)).

INA: ACT 274C FN 3

FN 3 Subparagraphs (A) and (B) amended by [§ 212\(c\) of IIRIRA](#) .

INA: ACT 274C FN 4

FN 4 Amended by [§ 379 of IIRIRA](#) , effective for "orders issued on or after the date of the enactment of this Act."

INA: ACT 274C FN 5

FN 5 Added by [§ 212\(d\) of IIRIRA](#) .

INA: ACT 274C FN 6

FN 6 The last part of this sentence was the subject of a secondary amendment by [§ 308\(g\)\(10\)\(D\)](#) of IIRIRA.

INA: ACT 274C FN 7

FN 7 Added by [§ 213 of IIRIRA](#) .

INA: ACT 274C FN 8

FN 8 Subsection (f) and conforming amendments to section 274C(d)(3) were added by [§ 212\(b\) of IIRIRA](#) and are applicable to the preparation of applications before, on, or after the date of enactment of IIRIRA.