

**§ 1131.77 [Amended]**

12. In § 1131.77, the last sentence is removed.

**§ 1131.85 [Amended]**

13. In § 1131.85, paragraph (b) is removed and reserved.

[FR Doc. 95-23896 Filed 9-27-95; 8:45 am]

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**DEPARTMENT OF JUSTICE****Immigration and Naturalization Service****8 CFR Part 103**

[INS No. 1692-95]

RIN 1115-AD92

**Fees Assessed for Defaulted Payments**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend existing Immigration and Naturalization Service (Service) regulations to increase the fee imposed when a check submitted to the Service in payment of a fee is not honored by the bank upon which it is drawn, from \$5.00 to \$30.00. The purpose of the proposed change is to enable the Service to recoup the administrative costs incurred in processing all returned checks and other defaulted payments. This action will result in the Service no longer losing money as a result of bad check activity.

**DATES:** Written comments must be submitted on or before November 27, 1995.

**ADDRESSES:** Written comments should be submitted, in triplicate, to Chief, Debt Collection and Cash Management Branch, Office of Finance, Immigration and Naturalization Service, 425 I Street, NW., Room 6309, Washington, DC 20536-0002. Facsimile submissions may be made to (202) 514-7860. To facilitate processing, please reference INS No. 1692-95 on all correspondence.

Before adopting this proposal, consideration will be given to any written comments that are submitted to the Service. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Debt Collection and Cash Management Branch, 425 I Street, NW., Room 6309, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Allen H. Sinsheimer, Systems Accountant, Debt Collection and Cash Management Branch, Office of Finance, Immigration and Naturalization Service, 425 I Street, NW., Room 6008, Washington, DC 20536, telephone (202) 616-7715.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

Changes in the current regulation are needed to make the bad check charge consistent with the actual costs incurred by the Service in processing returned checks and other defaulted payments. The current bad check charge is \$5.00.

The Service has studied the costs incurred by several Administrative Centers attributable to the return of a bad check from a financial institution. The Administrative Center, Dallas, and the Administrative Center, Twin Cities, were asked to identify each action that must be undertaken and quantify the time and costs involved in processing a bad check. Meaningful and reliable accumulations of the time and expense involved in the average costs of processing each bad check have been gathered, since these centers handle a substantial number of financial transactions each year. For example, three employees at the Dallas Administrative Center each spend 38 hours each month processing bad checks. Over 900 bad checks are processed each year at the Dallas Administrative Center. Data for over 1,800 bad checks were provided by the Administrative Centers.

As a result of our study, we have determined that the average cost to the Service to process each bad check received is \$30.11. We have rounded off the cost to \$30.00.

The Service notes that the United States Customs Service has recently completed a review of the costs incurred in processing bad checks and has also concluded that a \$30.00 fee is appropriate compensation for the costs it incurs in processing bad checks.

**Regulatory Flexibility Act and Executive Order 12866**

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and for the reasons stated in the preamble, it is certified that the proposed rule would not have a significant impact on a substantial number of small entities. Accordingly, the proposed rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. The proposed rule would not result in a "significant regulatory action" under Executive Order 12866.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended to read as follows:

**PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS**

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252(b), 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7 is amended by:

- a. Redesignating paragraph (a) as paragraph (a)(1);
- b. Removing in the fifth sentence of newly designated paragraph (a)(1) the term "\$5.00" and adding in its place the term "\$30.00"; and
- c. Removing the sixth sentence of newly designated paragraph (a)(1); and
- d. Adding a new paragraph (a)(2) to read as follows:

**§ 103.7 Fees.**

(a) \* \* \*

(2) A charge of \$30.00 will be imposed if a check in payment of a fee, fine, penalty, and/or any other matter is not honored by the bank or financial institution on which it is drawn. A receipt issued by a Service officer for any such remittance shall not be binding upon the Service if the remittance is found uncollectible. Furthermore, credit for meeting legal and statutory deadlines will not be deemed to have been met if payment is not made within 10 business days after notification by the Service of the dishonored check.

\* \* \* \* \*

Dated: September 12, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

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