

Department of Homeland Security

§ 274.20

§ 274.18 Provisions applicable to particular situations.

(a) A straw purchaser is a person who purchases in his own name a conveyance for another person, the real purchaser, who has a record or reputation. A lienholder-petitioner that knows, or has reason to believe, that a purchaser of a conveyance is a straw purchaser, must satisfy the requirements of § 274.15(a) of this part as to both the straw purchaser and the real purchaser to be eligible for a grant of remission of forfeiture. This provision applies where money is borrowed on the security of property held in the name of the straw purchaser for the real purchaser.

(b) A petitioner engaged in the business of leasing conveyances must satisfy the requirements of § 274.15(a) of this part as to all lessees and sublessees or other persons having any interest under a lease of the subject conveyance on the date of seizure of that conveyance to be eligible for a grant of remission of forfeiture.

(c) In the consideration of a petition for relief from forfeiture the mere existence of a community property interest without proof of financial contribution to the purchase of a conveyance will not be deemed to have been a property interest in a seized and forfeited conveyance.

(d) A petitioner that submits a petition for remission of forfeiture as a subrogee must satisfy the requirements of § 274.15(a) of this part as to all prior possessors of the subrogated interest in the seized and forfeited conveyance to be eligible for a grant of remission of forfeiture.

§ 274.19 Determinations on petitions; reconsideration.

(a) Upon consideration of a petition for relief from forfeiture and all of the facts and circumstances surrounding the seizure of a conveyance, the regional commissioner shall issue a written determination. In making that determination the regional commissioner shall presume that the evidence is sufficient to support forfeiture of the conveyance. No hearing shall be held on any petitions for relief from forfeiture under this part.

(b) The regional commissioner may deny relief from forfeiture when there

are unusual circumstances regarding a seizure which provide reasonable grounds for concluding that remission or mitigation of the forfeiture would be contrary to the interests of justice and would diminish the deterrent effect of section 274(b) of the Act, even if the petitioner has satisfactorily established compliance with the administrative conditions applicable to and eligibility for relief from forfeiture.

(c) Relief from forfeiture shall not be granted to any petitioner who has a subordinate property interest to another petitioner until the petition of the petitioner with the superior property interest has been finally adjudicated nor until any claim or petition of the owner has been finally adjudicated.

(d) The determination on a petition shall set forth either the conditions upon which relief has been granted and the procedures for obtaining possession of the forfeited conveyance or other relief granted; or the reasons for denial of relief from forfeiture and the procedures for requesting reconsideration. The determination on a petition shall be mailed to the petitioner or duly authorized counsel of the petitioner.

(e) Any request for reconsideration of a denial of relief from forfeiture must be submitted to the regional commissioner within 10 days of receipt of the determination on the petition. Such request for reconsideration can only be based on evidence recently developed or not previously considered.

(f) Only one request for reconsideration of a denial of relief from forfeiture shall be considered.

§ 274.20 Compromise of judicial forfeiture proceedings.

Judicial forfeiture proceedings commenced pursuant to section 274(b) of the Act and this part may be compromised by the United States Attorney only with the concurrence of the Director, Asset Forfeiture Office, Criminal Division, Department of Justice. In evaluating a compromise, the United States Attorney shall consider the probabilities for successfully prosecuting the judicial forfeiture proceedings and the terms of the compromise offer. The United States Attorney shall consult with the regional

commissioner before recommending a compromise.

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

Subpart A—Employer Requirements

- Sec.
 274a.1 Definitions.
 274a.2 Verification of employment eligibility.
 274a.3 Continuing employment of unauthorized aliens.
 274a.4 Good faith defense.
 274a.5 Use of labor through contract.
 274a.6 State employment agencies.
 274a.7 Pre-enactment provisions for employees hired prior to November 7, 1986.
 274a.8 Prohibition of indemnity bonds.
 274a.9 Enforcement procedures.
 274a.10 Penalties.
 274a.11 [Reserved]

Subpart B—Employment Authorization

- 274a.12 Classes of aliens authorized to accept employment.
 274a.13 Application for employment authorization.
 274a.14 Termination of employment authorization.

AUTHORITY: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

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Subpart A—Employer Requirements

§ 274a.1 Definitions.

For the purpose of this part—

(a) The term *unauthorized alien* means, with respect to employment of an alien at a particular time, that the alien is not at that time either: (1) Lawfully admitted for permanent residence, or (2) authorized to be so employed by this Act or by the Attorney General;

(b) The term *entity* means any legal entity, including but not limited to, a corporation, partnership, joint venture, governmental body, agency, proprietorship, or association;

(c) The term *hire* means the actual commencement of employment of an employee for wages or other remuneration. For purposes of section 274A(a)(4) of the Act and § 274a.5 of this part, a hire occurs when a person or entity

uses a contract, subcontract or exchange entered into, renegotiated or extended after November 6, 1986, to obtain the labor of an alien in the United States, knowing that the alien is an unauthorized alien;

(d) The term *refer for a fee* means the act of sending or directing a person or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person, for remuneration whether on a retainer or contingency basis; however, this term does not include union hiring halls that refer union members or non-union individuals who pay union membership dues;

(e) The term *recruit for a fee* means the act of soliciting a person, directly or indirectly, and referring that person to another with the intent of obtaining employment for that person, for remuneration whether on a retainer or contingency basis; however, this term does not include union hiring halls that refer union members or non-union individuals who pay union membership dues;

(f) The term *employee* means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors as defined in paragraph (j) of this section or those engaged in casual domestic employment as stated in paragraph (h) of this section;

(g) The term *employer* means a person or entity, including an agent or anyone acting directly or indirectly in the interest thereof, who engages the services or labor of an employee to be performed in the United States for wages or other remuneration. In the case of an independent contractor or contract labor or services, the term *employer* shall mean the independent contractor or contractor and not the person or entity using the contract labor;

(h) The term *employment* means any service or labor performed by an employee for an employer within the United States, including service or labor performed on a vessel or aircraft that has arrived in the United States and has been inspected, or otherwise included within the provisions of the Anti-Reflagging Act codified at 46