

116TH CONGRESS
2D SESSION

H. R. 8089

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2020

Received

AN ACT

To amend the Immigration and Nationality Act to expand premium processing for certain immigration benefits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Stopgap
3 USCIS Stabilization Act”.

4 **SECTION 2. EXPANSION OF PREMIUM PROCESSING.**

5 (a) IN GENERAL.—Section 286(u) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1356(u)) is amended
7 to read as follows:

8 “(u) PREMIUM FEE FOR CERTAIN IMMIGRATION
9 BENEFIT TYPES.—

10 “(1) IN GENERAL.—The Secretary of Homeland
11 Security is authorized to establish and collect a pre-
12 mium fee for the immigration benefit types described
13 in paragraph (2). Such fee shall be paid in addition
14 to any other fees authorized by law, deposited as off-
15 setting receipts in the Immigration Examinations
16 Fee Account established under subsection (m), and
17 used for the purposes described in paragraph (4).

18 “(2) IMMIGRATION BENEFIT TYPES.—Subject
19 to reasonable conditions or limitations, the Secretary
20 shall establish a premium fee under paragraph (1)
21 in connection with—

22 “(A) employment-based nonimmigrant pe-
23 titions and associated applications for depend-
24 ents of the beneficiaries of such petitions;

1 “(B) employment-based immigrant peti-
2 tions filed by or on behalf of aliens described in
3 paragraph (1), (2), or (3) of section 203(b);

4 “(C) applications to change or extend non-
5 immigrant status;

6 “(D) applications for employment author-
7 ization; and

8 “(E) any other immigration benefit type
9 that the Secretary deems appropriate for pre-
10 mium processing.

11 “(3) AMOUNT OF FEE.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (C), with respect to an immigration ben-
14 efit type designated for premium processing by
15 the Secretary on or before August 1, 2020, the
16 premium fee shall be \$2,500, except that the
17 premium fee for a petition for classification of
18 a nonimmigrant described in subparagraph
19 (H)(ii)(b) or (R) of section 101(a)(15) shall be
20 \$1,500.

21 “(B) OTHER IMMIGRATION BENEFIT
22 TYPES.—With respect to an immigration benefit
23 type designated for premium processing but not
24 described in subparagraph (A), the initial pre-
25 mium fee shall be established by regulation,

1 which shall include a detailed methodology sup-
2 porting the proposed premium fee amount.

3 “(C) BIENNIAL ADJUSTMENT.—The Sec-
4 retary may adjust a premium fee under sub-
5 paragraph (A) or (B) on a biennial basis by the
6 percentage (if any) by which the Consumer
7 Price Index for All Urban Consumers for the
8 month of June preceding the date on which
9 such adjustment takes effect exceeds the Con-
10 sumer Price Index for All Urban Consumers for
11 the same month of the second preceding cal-
12 endar year. The provisions of section 553 of
13 title 5, United States Code, shall not apply to
14 an adjustment authorized under this subpara-
15 graph.

16 “(4) USE OF FEE.—Fees collected under this
17 subsection may only be used by U.S. Citizenship and
18 Immigration Services to—

19 “(A) provide the services described in
20 paragraph (5) to premium processing requestors;
21

22 “(B) make infrastructure improvements in
23 adjudications processes and the provision of in-
24 formation and services to immigration and nat-
25 uralization benefit requestors;

1 “(C) respond to adjudication demands, in-
2 cluding by reducing the number of pending im-
3 migration and naturalization benefit requests;
4 and

5 “(D) otherwise offset the cost of providing
6 adjudication and naturalization services.

7 “(5) PREMIUM PROCESSING SERVICES.—The
8 Secretary—

9 “(A) may suspend the availability of pre-
10 mium processing for designated immigration
11 benefit requests only if circumstances prevent
12 the completion of processing of a significant
13 number of such requests within the required pe-
14 riod; and

15 “(B) shall ensure that premium processing
16 requestors have direct and reliable access to
17 current case status information as well as the
18 ability to communicate with the premium pro-
19 cessing units at each service center or office that
20 provides premium processing services.”.

21 (b) EXPANSION TO NEW BENEFIT REQUESTS.—

22 (1) IN GENERAL.—Notwithstanding the re-
23 quirement to set a fee by regulation under section
24 286(u)(3)(B) of the Immigration and Nationality
25 Act (8 U.S.C. 1356(u)(3)(B)), as amended by sub-

1 section (a), the Secretary of Homeland Security may
2 set a fee under that section without regard to the
3 provisions of section 553 of title 5, United States
4 Code, if such fee is consistent with the following:

5 (A) For a petition for classification under
6 section 203(b)(1)(C) of the Immigration and
7 Nationality Act (8 U.S.C. 1153(b)(1)(C)), or a
8 petition for classification under section
9 203(b)(2) involving a waiver under section
10 203(b)(2)(B) of such Act, the fee is set at an
11 amount not greater than \$2,500 and the re-
12 quired processing timeframe is not greater than
13 45 days.

14 (B) For an application under section 248
15 of the Immigration and Nationality Act (8
16 U.S.C. 1258) to change status to a classifica-
17 tion described in subparagraph (F), (J), or (M)
18 of section 101(a)(15) of such Act (8 U.S.C.
19 1101(a)(15)), the fee is set at an amount not
20 greater than \$1,750 and the required proc-
21 essing timeframe is not greater than 30 days.

22 (C) For an application under section 248
23 of the Immigration and Nationality Act (8
24 U.S.C. 1258) to change status to be classified
25 as a dependent of a nonimmigrant described in

1 subparagraph (E), (H), (L), (O), (P), or (R) of
2 section 101(a)(15) of such Act (8 U.S.C.
3 1101(a)(15)), or to extend such classification,
4 the fee is set at an amount not greater than
5 \$1,750 and the required processing timeframe
6 is not greater than 30 days.

7 (D) For an application for employment au-
8 thorization, the fee is set at an amount not
9 greater than \$1,500 and the required proc-
10 essing timeframe is not greater than 30 days.

11 (2) CLARIFICATION.—The required processing
12 timeframe for each of the applications and petitions
13 described in paragraph (1) shall not commence until
14 the date that all prerequisites for adjudication are
15 received by the Secretary of Homeland Security.

16 (c) OTHER BENEFIT REQUESTS.—In implementing
17 the amendments made by subsection (a), the Secretary of
18 Homeland Security shall develop and implement processes
19 to ensure that the availability of premium processing, or
20 its expansion to additional immigration benefit requests,
21 does not result in an increase in processing times for im-
22 migration benefit requests not designated for premium
23 processing or an increase in regular processing of immi-
24 gration benefit requests so designated.

1 **SEC. 3. REPORTING REQUIREMENTS.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 date of the enactment of this Act, the Secretary of Home-
4 land Security shall provide to the appropriate Committees
5 a 5-year plan, including projected cost estimates, procure-
6 ment strategies, and a project schedule with milestones,
7 to accomplish each of the following:

8 (1) Establish electronic filing procedures for all
9 applications and petitions for immigration benefits.

10 (2) Accept electronic payment of fees at all fil-
11 ing locations.

12 (3) Issue correspondence, including decisions,
13 requests for evidence, and notices of intent to deny,
14 to immigration benefit requestors electronically.

15 (4) Improve processing times for all immigra-
16 tion and naturalization benefit requests.

17 (b) SEMI-ANNUAL BRIEFINGS.—Not later than 180
18 days after submission of the plan described in paragraph
19 (1), and on a semi-annual basis thereafter, the Secretary
20 shall advise the appropriate Committees on the implemen-
21 tation status of such plan.

22 (c) APPROPRIATE COMMITTEES DEFINED.—In this
23 section, the term “appropriate Committees” means—

24 (1) the Committee on Appropriations, the Com-
25 mittee on the Judiciary, and the Committee on

