exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

(June 27, 1952, ch. 477, title II, ch. 9, § 290, 66 Stat. 234; Pub. L. 100–525, § 9(q), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 104–208, div. C, title III, § 308(d)(4)(M), title IV, § 414(a), Sept. 30, 1996, 110 Stat. 3009–618, 3009–669.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, ''this Act'', meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208, § 308(d)(4)(M), substituted ''admitted or denied admission to the United States'' for ''admitted to the United States, or excluded therefrom'' in two places.

Subsec. (c). Pub. L. 104–208, § 414(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Secretary of Health and Human Services shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.''

1988—Subsec. (c). Pub. L. 100–525 substituted ''Secretary of Health and Human Services'' for ''Federal Security Administrator'' and ''The Secretary'' for ''The Administrator''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(d)(4)(M) 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.

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.

REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS

Pub. L. 104–208, div. C, title IV, § 414(b), Sept. 30, 1996, 110 Stat. 3009–669, as amended by Pub. L. 108–156, § 3(d), Dec. 3, 2003, 117 Stat. 1945, directed the Commissioner of Social Security to transmit to the Secretary of Homeland Security, by not later than 1 year after Sept. 30, 1996, a report on the extent to which social security account numbers and cards were used by aliens for fraudulent purposes.

§ 1361. Burden of proof upon alien

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not inadmissible under any provision of this chapter, and, if an alien, that he is entitled to the nonimmigrant, immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not inadmissible under any provision of this chapter. In any removal proceeding under part IV of this subchapter against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

(June 27, 1952, ch. 477, title II, ch. 9, § 291, 66 Stat. 234; Pub. L. 97–116, § 18(k)(1), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 104–208, div. C, title III, § 308(d)(4)(N), (e)(1)(N), (g)(9)(A), Sept. 30, 1996, 110 Stat. 3009–618, 3009–619, 3009–624.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original, ''this Act'', meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–208, § 308(g)(9)(A), substituted ''part IV'' for ''Part V''.

Pub. L. 104–208, § 308(e)(1)(N), substituted ''removal'' for ''deportation''.

Pub. L. 104–208, § 308(d)(4)(N), substituted ''inadmissible'' for ''subject to exclusion'' in two places.

1981—Pub. L. 97–116 substituted ''immigrant, special immigrant, immediate relative, or refugee'' for ''quota immigrant, or nonquota immigrant''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, set out as a note under section 1101 of this title.

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.

§ 1362. Right to counsel

In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall

have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

(June 27, 1952, ch. 477, title II, ch. 9, § 292, 66 Stat. 235; Pub. L. 104–208, div. C, title III, §§ 308(d)(4)(O), 371(b)(9), Sept. 30, 1996, 110 Stat. 3009–619, 3009–645.)

AMENDMENTS

1996—Pub. L. 104–208, § 371(b)(9), substituted ''an immigration judge'' for ''a special inquiry officer''.

Pub. L. 104–208, § 308(d)(4)(O), substituted ''removal'' for ''exclusion or deportation'' in two places.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(d)(4)(O) 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.

Amendment by section 371(b)(9) of Pub. L. 104–208 effective Sept. 30, 1996, see section 371(d)(1) of Pub. L. 104–208, set out as a note under section 1101 of this title.

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.

§ 1363. Deposit of and interest on cash received to secure immigration bonds

(a) Cash received by the Attorney General as security on an immigration bond shall be deposited in the Treasury of the United States in trust for the obligor on the bond, and shall bear interest payable at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum. Such interest shall accrue from date of deposit occurring after April 27, 1966, to and including date of withdrawal or date of breach of the immigration bond, whichever occurs first: *Provided*, That cash received by the Attorney General as security on an immigration bond, and deposited by him in the postal savings system prior to discontinuance of the system, shall accrue interest as provided in this section from the date such cash ceased to accrue interest under the system. Appropriations to the Treasury Department for interest on uninvested funds shall be available for payment of said interest.

(b) The interest accruing on cash received by the Attorney General as security on an immigration bond shall be subject to the same disposition as prescribed for the principal cash, except that interest accruing to the date of breach of the immigration bond shall be paid to the obligor on the bond.

(June 27, 1952, ch. 477, title II, ch. 9, § 293, as added Pub. L. 91–313, § 2, July 10, 1970, 84 Stat. 413.)

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.

§ 1363a. Undercover investigation authority

(a) In general

With respect to any undercover investigative operation of the Service which is necessary for the detection and prosecution of crimes against the United States—

(1) sums appropriated for the Service may be used for leasing space within the United States and the territories and possessions of the United States without regard to the following provisions of law:

(A) section 1341(a) of title 31,

(B) section 6301(a) and (b)(1) to (3) of title 41,

(C) chapter 45 of title 41,

(D) section 8141 of title 40,

(E) section 3324(a) and (b) of title 31,

(F) section 6306 of title 41, and

(G) section 3901 of title 41;

(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 9102 of title 31;

(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 and of section 3302(a) of title 31; and

(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302(b) of title 31.

The authority set forth in this subsection may be exercised only upon written certification of the Commissioner, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of the undercover operation.

(b) Disposition of proceeds no longer required

As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a) of this section, are no longer necessary for the conduct of the operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) Disposition of certain corporations and business entities

If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) of this section with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.