

Colorado Repeals State Employment Verification Requirement

By **Nicola Ai Ling Prall**

June 20, 2016

Beginning on August 10, 2016, Colorado employers will be relieved of the additional state verification and retention obligations related to the Form I-9, Employment Eligibility Verification.

Since January 1, 2007, Colorado employers have been required to verify the work authorization of all newly hired employees — in essence, comply with federal I-9 requirements. However, Colorado added requirements on top of those for the Form I-9: the completion and retention of a written or electronic version of an entirely separate affirmation form, and retention of copies of the identity and work authorization documents presented by the employee during the I-9 process. More than 200 employers have been subject to fines under the law and more than 7,000 random audits were conducted. The law called for fines between \$5,000 and \$25,000.

[House Bill 16-1114](#), signed into law by Governor John Hickenlooper, eliminates the additional verification and retention obligations for Colorado employers.

Employers in Colorado can take the following steps to prepare for the upcoming change in the law:

1. Continue to complete the affirmation form and retain documents as required by the law for all newly hired employees until August 10, 2016.
2. Create a plan to phase out the use of the affirmation form.
3. Assess and decide whether to continue to keep copies of I-9 identity and work authorization documents after August 10, 2016, or whether to stop since it is no longer required by law. It may be necessary to consult counsel about the advantages and disadvantages to the practice of retaining I-9 supporting documents.
4. Continue to retain the additional affirmation form for active employees hired between January 1, 2007, and August 10, 2015. The law is silent regarding the requirement to retain the form, but it would be prudent to do so since the agency does retain the power to conduct an audit.
5. Use this time to review current I-9 practices and processes and audit I-9s to ensure compliance with federal laws.

In a time when employers are seeing growing administrative requirements, this law is a welcome change.

Meet the Author



Nicola Ai Ling Prall

Principal
Raleigh

919-760-6467
PrallN@jacksonlewis.com

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