

# Update on LLR's Immigration Investigations and Site Visits

September 28, 2009

Ogletree Deakins is pleased to announce that in response to certain concerns raised by the South Carolina business community, the South Carolina Department of Labor, Licensing and Regulations (LLR) has agreed to revise its enforcement procedures in connection with the private employment provisions of the South Carolina Illegal Immigration Reform Act of 2008 (SCIIRA).

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As noted in our [July 23, 2009 South Carolina eAuthority](#), a number of concerns had been raised by the business community regarding the enforcement of the “random audit” provisions of SCIIRA. Among these concerns were significant disruptions to daily operations by unannounced site visits, requests for documents including Forms I-9, and requests to interview employees. After holding a series of meetings with Ogletree Deakins, the South Carolina Chamber of Commerce, and other business organizations and attorneys, LLR has agreed to revise its enforcement procedures by taking the following steps:

- **Advance Notice of Inspection:** Like federal inspections of employer I-9 forms, LLR is now providing several days notice prior to conducting an audit. This advance notice gives employers the opportunity to make administrative arrangements ahead of time to minimize disruption to business operations, and promotes efficiency in the process by giving employers the time to make relevant documents available for inspection.
- **No Inspection of I-9 documents:** In compliance with federal regulations pertaining to employment eligibility verification, LLR is no longer requesting to inspect I-9 forms and supporting documentation.
- **New Compliance Affirmation Form:** In lieu of certain investigation practices, LLR has implemented a new “Affirmation of Legal Work Status” form to be signed by employers or their authorized representatives affirming that the employer is not knowingly or intentionally employing an unauthorized alien, as required

by SCIIRA. Knowingly making a misrepresentation on the form is punishable by fine and/or imprisonment. The use of this form meets LLR's objective of curtailing illegal employment of unauthorized workers while addressing certain privacy concerns and production burdens to businesses in releasing certain personnel documents.

These recent developments in LLR's enforcement procedures are a testament to the collaboration between LLR and the business community in ensuring that employers are in compliance with SCIIRA. We applaud LLR's willingness to work in partnership with the South Carolina business community in order to ensure that the laws of the state are effectively administered while being responsive to the needs of the business community.

### **Additional Information**

Should you have any questions about the revised enforcement procedures, please contact the Ogletree Deakins attorney with whom you normally work, a member of our [Immigration Practice Group](#), or the Client Services Department at 866-287-2576 or via e-mail at [clientservices@ogletreedeakins.com](mailto:clientservices@ogletreedeakins.com).

Note: This article was published in the [September 28, 2009 issue](#) of the *South Carolina eAuthority*.

### TOPICS

[Employment Law, Immigration](#)