

Client Alert: SC Immigration Inspection Update

Nexsen Pruet recently conducted an Immigration Compliance and Enforcement webinar. The slides from that presentation can be accessed by clicking [here](#).

During the webinar we stated that the South Carolina Chamber of Commerce ("Chamber") had helped resolve two of the main concerns raised by the way the South Carolina Department of Labor, Licensing, and Regulation ("LLR") had been carrying out immigration inspections to enforce the South Carolina Illegal Immigration Reform Act. (For a summary of the main concerns raised by employers and their counsel, click [here](#).) LLR agreed to give employers at least three days advance written notice of inspections, and also agreed to no longer ask employers to produce I-9 forms and to affirmatively inform employers not to produce them.

As stated during the webinar, the Chamber was nearing a resolution on the more difficult issues of whether LLR would continue to request to interview employees randomly and to inspect the records of employees hired before July 1, 2009.

These additional issues have now been resolved by LLR agreeing to ask employers to sign a one-page "Affirmation of Legal Work Status" form in lieu of interviewing and asking for documentation regarding employees hired before July 1, 2009. The Affirmation is essentially a certification that the employer is not knowingly or intentionally employing unauthorized aliens and that it has taken appropriate measures to verify that its workers are authorized to work in the United States. Knowingly making any false statement on the Affirmation is punishable by fine and/or imprisonment.

We express our gratitude to the Chamber for partnering with Nexsen Pruet and others in working through these issues with LLR. The only major concern raised by state businesses that has not been resolved is the criteria used by LLR to select employers for inspection. In the coming months there may be additional guidance from LLR on this issue. If you have questions about federal or South Carolina immigration compliance, please contact David Dubberly or Melissa Azallion.

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