S T A T E O F N E W Y O R K

4863

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. ALESSI -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to mandatory verification of an employee's legal status

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The state finance law is amended by adding a new section 139-l to read as follows:

S 139-L. MANDATORY VERIFICATION OF AN EMPLOYEE'S LEGAL STATUS. 1. FOR THE PURPOSE OF THIS SECTION:

A. "CONTRACTOR" SHALL MEAN ANY ENTITY ENTERING INTO A CONTRACT TO PROVIDE GOODS OR SERVICES TO THE STATE WHICH EMPLOYS ONE OR MORE INDIVIDUALS.

B. "EMPLOYEE" SHALL MEAN ANY INDIVIDUAL EMPLOYED OR PERMITTED TO WORK FOR A CONTRACTOR IN ANY OCCUPATION. THIS SHALL INCLUDE ALL FULL-TIME, PART-TIME, SEASONAL AND TEMPORARY EMPLOYEES.

2. ANY ENTITY ENTERING INTO A CONTRACT FOR WORK OR SERVICES TO BE PERFORMED OR GOODS TO BE SOLD TO THE STATE OF NEW YORK SHALL VERIFY THAT ALL ITS EMPLOYEES ARE AUTHORIZED UNDER FEDERAL LAW TO BE PRESENT IN THE UNITED STATES. A CONTRACTOR SHALL BE DEEMED TO HAVE COMPLIED WITH THE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION IF SUCH CONTRACTOR HAS AND RETAINS APPROPRIATE DOCUMENTATION OF THE EMPLOYEE'S LEGAL STATUS WITHIN THREE BUSINESS DAYS OF THE EMPLOYEE'S HIRE DATE. AN INDIVIDUAL WHO PROVIDES THE APPROPRIATE PAPERWORK IS PRESUMED TO BE ELIGIBLE TO WORK IN THE UNITED STATES.

3. PROOF OF AN EMPLOYEE'S LAWFUL PRESENCE IN THE UNITED STATES SHALL INCLUDE VALID DOCUMENTARY EVIDENCE, FROM THE NECESSARY STATE OR FEDERAL AGENCY, THAT SUCH PERSON: (I) IS A UNITED STATES CITIZEN, (II) IS AN ALIEN LAWFULLY ADMITTED FOR PERMANENT OR TEMPORARY RESIDENCE, (III) HAS A CONDITIONAL PERMANENT RESIDENT STATUS, (IV) IS A REFUGEE OR HAS BEEN GRANTED ASYLUM, (V) HAS A VALID, UNEXPIRED NONIMMIGRANT VISA OR NONIMMI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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GRANT VISA STATUS, (VI) HAS A PENDING APPLICATION FOR ASYLUM, (VII) HAS A PENDING OR APPROVED APPLICATION FOR TEMPORARY PROTECTED STATUS, (VIII) HAS APPROVED DEFERRED STATUS, OR (IX) HAS A PENDING APPLICATION FOR ADJUSTMENT OF STATUS TO THAT OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE OR CONDITIONAL PERMANENT RESIDENT STATUS.

4. A PHOTOCOPY OF THE DOCUMENTS RELIED UPON TO VERIFY AN EMPLOYEE'S LEGAL STATUS SHALL BE PLACED IN THE EMPLOYEE'S FILE AND KEPT BY THE EMPLOYER FOR THREE YEARS AFTER THE HIRE DATE OR FOR ONE YEAR AFTER EMPLOYMENT IS TERMINATED, WHICHEVER IS LATER.

5. IF A CONTRACTOR RECEIVES EVIDENCE THAT THE DOCUMENTATION PRESENTED TO VERIFY LEGAL STATUS HAS BEEN STOLEN, IS FORGED OR IS FAKE, THE EMPLOYER SHALL CONDUCT A PROMPT AND THOROUGH INVESTIGATION. IF THE RESULTS OF THE INVESTIGATION DEMONSTRATE THAT THE PAPERWORK SUBMITTED TO VERIFY LEGAL STATUS IS UNRELIABLE, THE EMPLOYEE SHALL BE TERMINATED FOR FAILURE TO PRODUCE EVIDENCE THAT HE OR SHE IS LEGALLY PRESENT. THE INVESTIGATION SHALL BE DOCUMENTED.

6. ANY CONTRACTOR IN VIOLATION OF THIS SECTION SHALL PAY A CIVIL PENALTY IN AN AMOUNT OF NOT LESS THAN ONE HUNDRED DOLLARS AND NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH EMPLOYEE WITH RESPECT TO WHOM SUCH VIOLATION OCCURRED.

S 2. This act shall take effect immediately; provided further that the provisions of this act shall apply to contracts entered into, altered, modified, extended, or renewed on or after such effective date.