

# E K M A R K & E K M A R K, L.L.C.

ATTORNEYS AT LAW

The Legal Arizona Workers Act imposes new obligations on Arizona employers that take effect in 2008. An “employer” is defined as an individual or organization employing at least one individual in the state and holding an Arizona business license. A “license” is defined as any form of authorization to do business in Arizona, including articles of incorporation. These broad definitions mean that many associations may be deemed employers and must therefore comply with the law.

Beginning January 1, 2008, associations who are employers must verify the employment eligibility of new hires using “E-Verify,” an Internet-based system. Employers must register for E-Verify on or before January 1, 2008 at <https://www.vis-dhs.com/employerregistration/StartPage.aspx?JS=YES>. As part of the registration process, an employer must agree to allow the Department of Homeland Security and the Social Security Administration into the workplace to review E-Verify-related records, including I-9 forms and E-Verify transaction reports.

The Act also prohibits employers from “knowingly” or “intentionally” employing undocumented workers. An employer “knowingly” employs an undocumented worker if it hires the individual in violation of federal law. The receipt of a “no-match” letter from the Social Security Administration for an employee could be used to demonstrate an employer’s constructive knowledge, so an association must take appropriate action after receiving such a letter. An employer “intentionally” employs an undocumented worker if the employer’s objective is to employ an unauthorized alien.

The consequences of violating the Act can be severe. For knowingly employing an undocumented worker, a court may order suspension of the employer's business license for up to 10 business days and the court must impose a 3-year probationary period. For intentionally employing an undocumented worker, a court must order suspension of the employer's business license for at least 10 business days and impose a 5-year probationary period. Further violations during the probation period can result in permanent revocation of an employer’s business license.

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