



**Roger Tsai**

Partner  
303.295.8171  
Denver  
[RYTtsai@hollandhart.com](mailto:RYTtsai@hollandhart.com)

## Repeal of Colorado's Employment Verification Law

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Effective August 10, 2016, Colorado employers no longer need to complete and maintain the state employment verification affirmation form that ensures that new hires are legally eligible for employment in the United States. Gone too will be the state requirement that employers keep copies of the documents provided by new hires to show their employment eligibility and identity in support of the I-9 verification process. Signed into law by Governor John Hickenlooper on June 8, 2016, [House Bill 16-1114](#) repeals the state statutory provisions that duplicated much of the employment verification requirements of the federal I-9 forms.

### Legislature Relieves Extra Burden on Colorado Employers

In repealing most of section 8-2-122 of the Colorado Revised Statutes, the Colorado legislature acknowledged that the additional state employment verification affidavit and documentation requirements imposed an extra, redundant burden on employers while doing nothing to further prevent unauthorized individuals from working in our state. With the repeal of the additional state verification requirements, the fines and penalties for failure to comply with those requirements under state law are repealed as well.

Section 8-2-122 does not go away entirely, however, as the legislature kept the provision that permits the director of the Colorado Division of Labor to request documentation from employers to show they are in compliance with the I-9 employment verification requirements. The director, or his/her designee, still may conduct random audits of employers to ensure compliance with I-9 obligations. The legislature also maintained the public policy statement that this statute is to be enforced in a non-discriminatory fashion.

### What Colorado Employers Should Do

For new employees hired in the next two months, before August 10, 2016, continue to comply with the Colorado employment verification requirements as well as your federal I-9 obligations.

For new employees hired on or after August 10, 2016, you need only comply with your federal I-9 employment verification requirements. That means newly hire employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, and employers must complete Section 2 of the I-9 and examine evidence of both identity and employment authorization within three business days of the employee's first day of employment. Federal law does not require you to keep copies of the documents provided by the employee to show identity and employment authorization, but employers may choose to retain these documents at their discretion in case an federal immigration audit occurs.

What should you do with the Colorado employment verification affirmation forms and copies of authorization document for your current employees after August 10th? Your best practice is to continue to keep those forms for the duration of each employee's employment since the forms were required at the time you hired them. Once an employee is no longer employed by your organization, you may dispose of the Colorado-specific affirmation forms but continue to retain the I-9 forms for one year after the date employment ends, or three years after the date of hire, whichever is later.

If you have any questions about the repeal of the Colorado employment verification law, please contact me at [RYTsai@hollandhart.com](mailto:RYTsai@hollandhart.com) or 801-799-5976, or contact the Holland & Hart attorney with whom you regularly work.