



IMMIGRATION ALERT

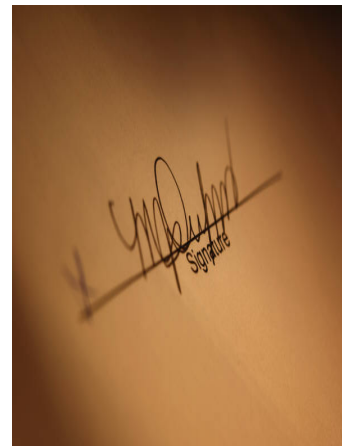
New Law Allows Electronic Storage, Signatures for I-9s

President Bush today signed into law a bill allowing employers for the first time to complete and store I-9 employment verification forms electronically. Electronic completion of the I-9 will save employees and employers time and money and free up space and resources currently devoted to storage. Prior to this legislation, the I-9 form was one of the only documents that employers could not store electronically.

The new law gives employers the option to move to an electronic format. It does not mandate that companies make the switch. Previously, the law permitted only three forms of record retention for I-9 forms: paper, microfilm, or microfiche. The bill simply adds “electronic format” as a fourth method of document retention. The bill also permits – but does not require – the use of electronic signatures on the I-9 form. Electronic signatures have grown in popularity since the passage of the Electronic Records and Signatures in Commerce Act in 2000.

The newly-enacted law does not change the document verification requirements under the Immigration Reform and Control Act (IRCA). Employers must still review **original** documentation to verify the identity and employment eligibility of new hires. Nor does the law affect the period during which I-9s must be retained. Under IRCA, employers must keep I-9s for three years from an employee’s date of hire or one year from the date of termination, whichever is later.

The new law becomes effective 180 days after enactment, or sooner if the Department of Homeland Security (DHS) issues final regulations implementing the law. Those regulations are likely to answer several open issues, such as what types of electronic storage and signatures will be acceptable. Employers may want to hold off implementing a paperless I-9 process until the DHS regulations are issued.



For more information about I-9 compliance issues, contact your Seyfarth Shaw attorney.

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