

LEGAL ALERT

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E-VERIFY REQUIREMENT IN EFFECT FOR NONRESIDENTIAL CONSTRUCTION EMPLOYERS IN OHIO

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As of March 19, 2026, all nonresidential construction contractors, subcontractors, and labor brokers are required to utilize the federal government’s E-Verify program for employees who work on a nonresidential construction project in Ohio. The “E-Verify Workforce Integrity Act” (Ohio House Bill 246) affects employers, regardless of their size, responsible for nonresidential construction projects such as highways, bridges, utilities, and related infrastructure in Ohio, but not employers responsible for residential construction projects such as industrialized units, manufactured or mobile homes, or other residential buildings.

While many non-residential construction contractors and subcontractors have been using E-Verify for well over a decade in compliance with the Federal Acquisitions Regulation (FAR) E-Verify clause in contracts with federal agencies, the Act marks the first time the State of Ohio has mandated use of E-Verify. Under the Act, nonresidential construction employers and labor brokers must now use the Department of Homeland Security and Social Security Administration’s E-Verify program to confirm the identity and legal working status of all employees, with minimal exceptions. Such employers must also keep records of the verification for each employee for three years from the date of hire or one year after the employee’s termination, whichever is later, in concert with the form I-9 retention requirement. The Act further prohibits employers from continuing to employ individuals for whom they receive a final nonconfirmation of eligibility. For those employers who have not already enrolled in E-Verify, [the E-Verify website](#) contains step-by-step enrollment instructions and guidance on use of the system.

PENALTIES IN OHIO FOR E-VERIFY VIOLATIONS

The Act authorizes the Ohio Attorney General to investigate complaints alleging violations of the Act and assess increasingly strict penalties to employers found to have committed violations of the Act, in addition to penalties which may be assessed under applicable federal law. The penalty for failing to use E-Verify starts at \$250 per violation but increases to \$1,000 for employers previously fined for such violations within three years, and \$1,500 thereafter. Penalties for employing individuals for whom the employer received a final nonconfirmation of eligibility are noticeably stiffer, starting at

\$5,000 per violation, and escalating to \$10,000 per violation for employers previously fined within three years, and \$25,000 for subsequent violations. In addition, employers found to have committed two or more willful violations of the Act will be disqualified from bidding on or participating in future state contracts for a period of up to two years.

Employers who receive a notice of violation from the Ohio Attorney General have only 10 days to either provide proof of eligibility for the employee(s) in question or request an adjudicative hearing to explain why it is not in violation of the Act. Consequences for employers who fail to abide by the Act or who fail to comply with any orders assessing penalties can be dire, including civil litigation, assessment of additional penalties, and even permanent revocation of the employer's business license(s).

For more information or guidance on the use of E-Verify, please contact a member of [Hahn Loeser's Labor and Employment Group](#).

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