

House Bill 169

By: Representatives Abrams of the 89th, Hugley of the 136th, Mitchell of the 88th, Fludd of the 64th, Wilkerson of the 38th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to
2 general provisions applicable to local governments, so as to modify the requirements relating
3 to verification of lawful residency by applicants of business licenses and private employers;
4 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
9 provisions applicable to local governments, is amended by revising Code Section 36-60-6,
10 relating to issuance of local business licenses and evidence of state licensure, as follows:

11 "36-60-6.

12 (a) Every private employer with more than ten employees shall register with and utilize
13 the federal work authorization program, as defined by Code Section 13-10-90. The
14 requirements of this subsection shall be effective on January 1, 2012, as to employers with
15 500 or more employees, on July 1, 2012, as to employers with 100 or more employees but
16 fewer than 500 employees, ~~and~~ on July 1, 2013, as to employers with more than ~~ten~~ 50
17 employees but fewer than 100 employees, ~~and on July 1, 2015, as to employers with more~~
18 than ten but 50 or fewer employees.

19 (b) For purposes of this Code section, the term 'employee' shall have the same meaning as
20 set forth in subparagraph (A) of paragraph (1.1) of Code Section 48-13-5, provided that
21 such person is also employed to work not less than 35 hours per week.

22 (c) Before any county or municipal corporation issues a business license, occupational tax
23 certificate, or other document required to operate a business to any person engaged in a
24 profession or business required to be licensed by the state under Title 43, the person shall
25 provide evidence of such licensure to the appropriate agency of the county or municipal
26 corporation that issues business licenses. No business license, occupational tax certificate,

27 or other document required to operate a business shall be issued to any person subject to
28 licensure under Title 43 without evidence of such licensure being presented.

29 (d) Before any county or municipal corporation issues or renews a business license,
30 occupational tax certificate, or other document required to operate a business to any person,
31 the person shall provide evidence that he or she is authorized to use the federal work
32 authorization program or evidence that the provisions of this Code section do not apply.
33 Evidence of such use shall be in the form of an affidavit as provided by the Attorney
34 General in subsection (f) of this Code section attesting that he or she utilizes the federal
35 work authorization program in accordance with federal regulations or that he or she
36 employs fewer than 11 employees or otherwise does not fall within the requirements of this
37 Code section. Whether an employer is exempt from using the federal work authorization
38 program as required by this Code section shall be determined by the number of employees
39 employed by such employer on January 1 of the year during which the affidavit is
40 submitted. The affidavit shall include the employer's federally assigned employment
41 eligibility verification system user number and the date of authority for use. The
42 requirements of this subsection shall be effective on January 1, 2012, as to employers with
43 500 or more employees, on July 1, 2012, as to employers with 100 or more employees but
44 fewer than 500 employees, and on July 1, 2013, as to employers with more than ~~ten~~ 50
45 employees but fewer than 100 employees, and on July 1, 2015, as to employers with more
46 than ten but 50 or fewer employees.

47 (e) Beginning December 31, 2012, and annually thereafter, any county or municipal
48 corporation issuing or renewing a business license, occupational tax certificate, or other
49 document required to operate a business shall provide to the Department of Audits and
50 Accounts a report demonstrating that such county or municipality is acting in compliance
51 with the provisions of this Code section. This annual report shall identify each license or
52 certificate issued by the agency in the preceding 12 months and include the name of the
53 person and business issued a license or other document and his or her federally assigned
54 employment eligibility verification system user number as provided in the affidavit
55 submitted at the time of application. Subject to funding, the Department of Audits and
56 Accounts shall annually conduct an audit of no fewer than 20 percent of such reporting
57 agencies.

58 (f) In order to assist private businesses and counties and municipal corporations in
59 complying with the provisions of this Code section, the Attorney General shall provide a
60 standardized form affidavit which may be used as acceptable evidence demonstrating use
61 of the federal employment eligibility verification system or that the provisions of
62 subsection (b) of this Code section do not apply to the applicant. The form affidavit shall

63 be posted by the Attorney General on the Department of Law's official website no later
64 than January 1, 2012.

65 (g) Once an applicant for a business license, occupational tax certificate, or other
66 document required to operate a business has submitted an affidavit with a federally
67 assigned employment eligibility verification system user number, he or she shall not be
68 authorized to submit a renewal application using a new or different federally assigned
69 employment eligibility verification system user number, unless accompanied by a sworn
70 document explaining the reason such applicant obtained a new or different federally
71 assigned employment eligibility verification system user number.

72 (h) Any person presenting false or misleading evidence of state licensure shall be guilty
73 of a misdemeanor. Any government official or employee knowingly acting in violation of
74 this Code section shall be guilty of a misdemeanor; provided, however, that any person
75 who knowingly submits a false or misleading affidavit pursuant to this Code section shall
76 be guilty of submitting a false document in violation of Code Section 16-10-20. It shall be
77 a defense to a violation of this Code section that such person acted in good faith and made
78 a reasonable attempt to comply with the requirements of this Code section.

79 (i) Documents or copies of documents required by this Code section may be submitted in
80 person, by mail, or electronically, provided the submission complies with Chapter 12 of
81 Title 10. Copies of documents submitted electronically satisfy the requirements of this
82 Code section.

83 (j) The Attorney General shall be authorized to conduct an investigation and bring any
84 criminal or civil action he or she deems necessary to ensure compliance with the provisions
85 of this Code section. The Attorney General shall provide an employer who is found to
86 have committed a good faith violation of this Code section 30 days to demonstrate to the
87 Attorney General that such employer has come into compliance with this Code section.
88 During the course of any investigation of violations of this Code section, the Attorney
89 General shall also investigate potential violations of Code Section 16-9-121.1 by
90 employees that may have led to violations of this Code section."

91 **SECTION 2.**

92 This Act shall become effective upon its approval by the Governor or upon its becoming law
93 without such approval.

94 **SECTION 3.**

95 All laws and parts of laws in conflict with this Act are repealed.