

**Pennsylvania Bar Association Resolution**  
**Opposing Local and State Regulation of Immigration**

WHEREAS, the American Bar Association, in February 2004, unanimously adopted a resolution<sup>1</sup> urging the federal government to retain exclusive jurisdiction over civil immigration matters, opposing the delegation of legal authority to state, territorial and local police to enforce federal civil immigration laws, and opposing criminalization of civil violations of immigration law;

WHEREAS, in May 2004, the Pennsylvania Bar Association adopted a resolution opposing legislation or administrative measures designed to criminalize civil immigration law violations, and to engage state and local police in the investigation, apprehension, detention, and removal of undocumented immigrants;

WHEREAS, in May 2005, the Pennsylvania Bar Association adopted a resolution recognizing that the exploitation of immigrant and other foreign born workers serves to depress the conditions and standards for everyone and places law-abiding employers at a competitive disadvantage compared to unscrupulous ones who seek to evade the laws that protect all workers;

WHEREAS, in May 2005, the Pennsylvania Bar Association adopted a resolution to support legislative efforts to accomplish the goal that employment and labor laws should protect all workers, regardless of race, national origin, citizenship or immigration status and that all workers should have means available to correct unlawful conduct by employers, regardless of race, national origin, gender, religion, age, citizenship or immigration status;

WHEREAS, various Pennsylvania municipalities are adopting ordinances that attempt to regulate immigration or enforce federal immigration law and similar legislation involving the Commonwealth of Pennsylvania in the regulation and enforcement of federal immigration laws has been proposed in the Pennsylvania General Assembly;

WHEREAS, state and local employer sanctions laws and laws regulating rental of housing to foreign born individuals who cannot establish that they are legally authorized to be present in the United States will create confusion in the business community and will result in unlawful discrimination against those who look or sound foreign;

WHEREAS, immigration is essential to the growth of the Pennsylvania and national economy;

WHEREAS, federal authority to regulate immigration is plenary and preempts state and local governments from enacting laws regulating immigration;

WHEREAS, Federal immigration law at 8 USC § 1324a(h)(2) expressly preempts any state or local government from imposing employer sanctions on those “who employ, recruit, or refer for a fee unauthorized [non–U.S. citizens]” and therefore any state or local legislation that prohibits the hiring of unauthorized workers or attempts to impose penalties on employers for hiring unauthorized workers is not legally enforceable;

WHEREAS, 8 USC § 1324a(h)(2) contains a limited exception for “licensing” laws, allowing governments to suspend or revoke a business license of an employer only based on a federal finding that the employer violated the federal employer sanctions law<sup>2</sup> and state or local legislation beyond this limited exception seeking to regulate the hiring of unauthorized workers or impose employer sanctions conflicts with the federal law and is preempted; and

WHEREAS, it is the responsibility of the federal government to address the need for workable and enforceable federal immigration policy.

NOW THEREFORE BE IT RESOLVED that the Pennsylvania Bar Association supports federal government enforcement of immigration law and ongoing efforts to develop and enact comprehensive immigration reform legislation and opposes local or state laws or regulations seeking to regulate immigration or immigrants; and

THEREFORE BE IT FURTHER RESOLVED that the Pennsylvania Bar Association authorizes its president and officers to communicate the content of this resolution to members of Congress, the press, state and local agencies, other bar associations, and members, and the public at large and to take such other action as may be appropriate.

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<sup>1</sup> ABA Resolution 105 adopted at midyear meeting on February 9, 2004.

<sup>2</sup> See the legislative history of the Immigration Reform and Control Act of 1986, explaining that the exception is intended to allow state or local governments to suspend, revoke, or refuse to reissue licenses to “any person who has been found to have violated the sanctions provisions in this legislation” (emphasis added). H.R. Rep. 99-682(I), 1986 U.S.C.C.A.N. 5649, 5662.