

# Contents

|   |              |
|---|--------------|
| <b>Introduction</b>   | <b>v</b>     |
| Why an Immigration Law Guide for Citizens?                                    | v            |
| Areas Where You Can Make a Difference   | vii          |
| <br>  |              |
| <b>Chapter 1</b>  |              |
| <b>Immigration Basics</b>   | <b>I-1</b>   |
| What is “Immigration Law”?  | I-3          |
| Who Wrote the Immigration Law?  | I-3          |
| The Constitutional Status of Aliens   | I-4          |
| Legal Immigrants  | I-4          |
| Nonimmigrants   | I-5          |
| Illegal Aliens  | I-5          |
| Refugees and Asylum   | I-6          |
| Who May be Barred from Entering the U.S.?                                     | I-8          |
| Who May be Deported from the U.S.?  | I-9          |
| What is the Role of the INS?  | I-10         |
| <br>  |              |
| <b>Chapter 2</b>  |              |
| <b>Federal Immigration Crimes</b>   | <b>II-1</b>  |
| Illegal Entry, Presence, or Reentry to the United States                      | II-3         |
| Alien Smuggling Felonies under Immigration and Nationality Act Section 274(a) | II-5         |
| Bringing Aliens to the United States  | II-6         |
| Transporting Illegal Aliens Within the United States                          | II-7         |
| Harboring or Sheltering Illegal Aliens  | II-8         |
| Encouraging or Inducing to Come to the United States                          | II-9         |
| Conspiracy and Aiding & Abetting Alien Smuggling                              | II-10        |
| Other Immigration-Related Crimes  | II-11        |
| <br>  |              |
| <b>Chapter 3</b>  |              |
| <b>Enforcement by INS and Other Federal Agencies</b>                          | <b>III-1</b> |
| Enforcement Powers in General   | III-3        |
| Enforcement at the Border   | III-3        |
| Inspection  | III-4        |
| Border Searches   | III-4        |
| Use of Military Personnel on the Border                                       | III-4        |
| Enforcement in Non-Border Areas   | III-5        |
| Questioning Individuals About Immigration Status                              | III-6        |
| Warrantless Detention by Immigration Officers                                 | III-6        |
| INS Interior Enforcement in Non-Border Areas                                  | III-8        |
| Civil Custody Versus Criminal Arrest  | III-9        |
| Administrative Detention  | III-9        |
| Confinement and Expedited Removal   | III-12       |
| Expedited Removal   | III-13       |
| Criminal Arrest of Aliens   | III-15       |
| Seizure of Property Under Immigration Law                                     | III-16       |
| Other Avenues Available to Activists  | III-17       |

## **Chapter 4**

### **Enforcement by Local Law Enforcement Agencies**

|  |       |
|--|-------|
| Authority for Local and State Police Enforcement of Federal Immigration Laws | IV-3  |
| United States v. Vasquez-Alvarez   | IV-4  |
| Procedures for Local Law Enforcement Investigations                          | IV-6  |
| Cooperation Agreements Between the INS and Local Law Enforcement Agencies    | IV-8  |
| Emergency Immigration Enforcement Under IIRAIRA Section 372                  | IV-10 |
| Unlawful Local Government Non-Cooperation and Non-Enforcement Policies       | IV-12 |
| Local Government Whistleblower Protections                                   | IV-14 |

## **Chapter 5**

### **Enforcement by Private Citizens and Organizations**

|   |      |
|---|------|
| Private Civil Actions                               | V-3  |
| Legal Standing: Getting Through the Courthouse Door | V-4  |
| Administrative Challenges to Government Regulations | V-9  |
| RICO Litigation                                     | V-11 |
| Federal Tort Claims Act                             | V-15 |
| Trespass and Citizen's Arrest                       | V-16 |
| State Trespass law                                  | V-16 |
| Criminal Trespass                                   | V-17 |
| Citizen's Arrest                                    | V-17 |
| Common State Law Approaches                         | V-18 |
| Civil and Criminal Liability of Arresting Party     | V-20 |

## **Chapter 6**

### **Document Fraud and Abuse**

|   |       |
|---|-------|
| Required Registration of Legal Aliens                 | VI-3  |
| Local Enforcement of Alien Registration Laws          | VI-4  |
| Document Fraud  | VI-6  |
| Civil Offenses  | VI-6  |
| Criminal Document Fraud                               | VI-9  |
| U.S. Passport Fraud                                   | VI-10 |
| False Birth Certificates                              | VI-10 |
| Misuse of Social Security Numbers                     | VI-10 |
| States Laws Punishing Document Fraud                  | VI-10 |
| False Statements to Federal Officials/Perjury         | VI-11 |
| Issuance of State Driver's Licenses to Illegal Aliens | VI-11 |
| Model Language from the California Vehicle Code       | VI-12 |
| Other Examples of State Driver's License Requirements | VI-13 |

## **Chapter 7**

### **Citizenship Issues**

|   |        |
|---|--------|
| Citizenship Basics                        | VII-3  |
| Naturalization                            | VII-4  |
| Revocation of Naturalization              | VII-5  |
| False Claims of Citizenship               | VII-6  |
| Birthright Citizenship and Illegal Aliens | VII-8  |
| Non-Citizen Voting                        | VII-9  |
| Illegal Campaign Contributions by Aliens  | VII-11 |

## **Chapter 8**

### **Sanctions for Illegal Employment of Aliens**

|   |         |
|---|---------|
| Employment Eligibility Verification   | VIII-1  |
| Establishing Employer Culpability   | VIII-4  |
| Employment Verification: Casual Labor and Independent Contractors               | VIII-5  |
| Complaint Procedures  | VIII-6  |
| Anti-Discrimination Protection for U.S. Citizens                                | VIII-7  |
| Violations of Temporary Foreign Worker Laws                                     | VIII-7  |
| Enforcement of H-1B Labor Condition Applications                                | VIII-10 |
| Enforcement of Labor Condition Applications for Other Temporary Foreign Workers | VIII-11 |
|   | VIII-15 |

## **Chapter 9**

### **Illegal Day Labor Issues**

|  |      |
|--|------|
| Casual Day Labor Markets: What Activists Can Do      | IX-1 |
| Hiring Halls Operated by Non-Profit Organizations    | IX-4 |
| Hiring Halls Supported by Local Governments          | IX-5 |
| Case Study: Suffolk County, New York                 | IX-6 |
| State Law Restrictions on Illegal Alien Hiring Halls | IX-8 |
|  | IX-8 |

## **Chapter 10**

### **Marriage and Family Law**

|   |     |
|---|-----|
| Marriage Fraud                                | X-1 |
| Conditional Resident Status for Alien Fiancés | X-3 |
| Termination of Conditional Status             | X-4 |
| False Documentation                           | X-4 |
| Hardship Waivers                              | X-5 |
| Defeating a Hardship Claim                    | X-6 |
| False Battered Spouse Claims                  | X-6 |
| "Mail-Order" Brides                           | X-7 |
| Victims of "One-Way" Sham Marriages           | X-7 |
| Marriage Mills                                | X-8 |
| Rescission of Adjustment of Status            | X-8 |
|   | X-9 |

## **Chapter 11**

### **Welfare Fraud and Abuse**

|   |       |
|---|-------|
| 1996 Welfare Act Reforms  | XI-1  |
| Restrictions on Means-Tested Benefits                                     | XI-3  |
| Sponsorship   | XI-4  |
| Public Charge Law and Regulations   | XI-5  |
| State Restrictions on Alien Eligibility for Public Benefits               | XI-7  |
| State Verification of Immigration Status in Welfare & Disability Programs | XI-13 |
| Procedures for State Compliance and Verification                          | XI-14 |
| Immigrant Welfare and Education Costs are Unfunded Federal Mandates       | XI-15 |
|   | XI-15 |

## **Chapter 12**

### **Immigrant Housing Issues**

|   |       |
|---|-------|
| Immigration and Slum Conditions                                 | XII-1 |
| Researching Local Housing Law                                   | XII-3 |
| Reporting Slumlords to the IRS                                  | XII-4 |
| Building Code Restrictions on Conversion of Existing Structures | XII-5 |
|   | XII-5 |

|  |       |
|--|-------|
| Zoning Ordinances  | XII-5 |
| Rental Ordinances  | XII-6 |
| Alien Access to Public Housing   | XII-6 |
| Required Reporting of Illegal Aliens by HUD and Section Public Housing Providers | XII-8 |

## **Chapter 13**

|   |               |
|---|---------------|
| <b>Alien Use of Public Education and Health Services</b>      | <b>XIII-1</b> |
| Public Elementary and Secondary Schools                       | XIII-3        |
| Foreign Student Visas   | XIII-5        |
| Duties of Sponsoring Educational Institutions                 | XIII-6        |
| Foreign Student Monitoring Programs                           | XIII-7        |
| Admission of Illegal Aliens to U.S. Colleges and Universities | XIII-8        |
| Student Financial Aid for Illegal Aliens                      | XIII-10       |
| Public Health Requirements for Aliens                         | XIII-11       |

## **Chapter 14**

|   |              |
|---|--------------|
| <b>Legal Rights and Responsibilities of Activists and Organizations</b> | <b>XIV-1</b> |
| Immigration Reform Demonstrations and the First Amendment               | XIV-3        |
| Applying for Demonstration or Parade Permits                            | XIV-3        |
| Required Permits and Fees   | XIV-4        |
| Responding to Counter-Demonstrators                                     | XIV-5        |
| Advocacy Advertising on Public Property                                 | XIV-6        |
| Free Expression and Private Property                                    | XIV-9        |
| Community-Based Organizing and Activism                                 | XIV-9        |

## **Appendix A: Sample Forms and Letters**

|  |            |
|--|------------|
| <b>Appendix A: Sample Forms and Letters</b>  | <b>A-1</b> |
| Sample Municipal Housing Code Violation Complaint Letter                           | A-3        |
| Sample Municipal Rental Housing Ordinance  | A-5        |
| Sample Day Labor Site Ordinance  | A-12       |
| Sample Freedom of Information Act (FOIA) Request to INS                            | A-14       |
| Sample Letter to Local Government Regarding Unlawful Operation of Day Labor Center | A-16       |
| Sample Complaint for Injunctive and Declaratory Relief                             | A-20       |

## **Appendix B: Examples of City Housing Code Provisions**

|   |            |
|---|------------|
| <b>Appendix B: Examples of City Housing Code Provisions</b> | <b>B-1</b> |
| Long Beach, California                                      | B-3        |
| Los Angeles, California                                     | B-5        |
| Phoenix, Arizona  | B-6        |
| Dade County, Florida  | B-7        |
| New York City and Metro Region                              | B-8        |

## **Appendix C: Examples of Rules and Regulations for Demonstrations and Protests**

|  |            |
|--|------------|
| <b>Appendix C: Examples of Rules and Regulations for Demonstrations and Protests</b> | <b>C-1</b> |
| Washington, DC   | C-3        |
| Los Angeles, California  | C-4        |

## **Appendix D: Researching Immigration Law**

|  |            |
|--|------------|
| <b>Appendix D: Researching Immigration Law</b> | <b>D-1</b> |
| Legal Research Sources in Print                | D-3        |
| Legal Research on the Internet                 | D-4        |