

Fact Sheet #5: Real Estate and Rental Agencies Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the application of the [FLSA](#) to real estate and rental agencies.

Characteristics

A real estate/rental agency is one which represents both in-state and out-of-state clients in negotiating the purchase or sale of property within the State in which the broker is located, or negotiates for the purchase or sale of property in other states, or collects or remits rents or other monies for property owners.

Coverage

Employees of real estate/rental agencies are individually covered by the Act if they regularly engage in work which is considered to be interstate commerce. This includes, for example, handling goods coming in from outside the state or which will be sent outside the state either by direct shipment or by a customer. Clerical and janitorial employees whose work is closely related and directly essential to such interstate operations are also covered, as are employees regularly engaged in interstate communication by telephone, telegraph, or the mails.

An enterprise is defined in the FLSA to mean the related activities performed, either through unified operation or common control, by any person or persons for a common business purpose. The FLSA applies to enterprises that have employees who are engaged in interstate commerce, produce, handle, sell, or work on goods that have been moved in or produced for interstate commerce, have \$500,000 in annual business volume, are named in the FLSA. Covered non exempt employees must be paid in accordance with requirements of the FLSA.

In determining the annual business volume, gross receipts from rental property owned and gross fees from rental property managed should be included. Gross receipts from the sale of property and property insurance should also be included.

Requirements

The FLSA requires the payment of the [Federal Minimum Wage](#) to covered non-exempt employees and [overtime pay](#) at a rate of not less than one and one-half times the regular rate of pay after 40 hours of work in a workweek. Wages required by FLSA are due on the regular payday for each pay period. Employers are required to keep [records](#) containing information specified in the regulations ([29 CFR Part 516](#)).

The FLSA [youth employment regulations](#) forbid the employment of minors under 14, restrict the hours of work and certain occupations for 14 & 15 year olds, and forbid the employment of 16 & 17 year olds in hazardous occupations.

Exemptions from various provisions of the FLSA are provided for employees who meet certain requirements. Among the employees who may be exempt from [minimum wage](#) and [overtime pay](#) are [executive, administrative, professional, and outside sales employees](#). Each of these categories of employee must meet specified requirements before the exemption may be applied.

Typical Problems

Some problems and misconceptions which Wage and Hour investigations commonly find in this type of business are:

- Employees being charged for meals, lodging, and other facilities which are actually furnished for the benefit of the employer.
- Employees being charged full retail cost for facilities furnished for their benefit. They may only be charged actual cost.
- Improper computation of gross business volume. With respect to the sale of any property or commodity (such as insurance) or the rental of property owned by the employer, gross receipts are counted in determining business volume. In the rental of property owned by someone else, only the commission paid is counted in the gross business volume.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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