

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 11-0693**

---

Introduced by: Councilmembers Clarke, Stokes, Henry, Branch, Curran, Middleton, Conaway  
Introduced and read first time: May 2, 2011  
Assigned to: Taxation, Finance and Economic Development Committee

---

Committee Report: Favorable with amendments  
Council action: Adopted  
Read second time: October 17, 2011

---

**AN ORDINANCE CONCERNING**

**Living Wages – Limited Exemption from Overtime Requirements for Workers Receiving Commissions**

FOR the purpose of mirroring a limited exemption from federal overtime requirements for certain workers receiving commissions in the City’s Living Wage law; and generally relating to living wage requirements for workers receiving commissions while working on City contracts.

BY repealing and reordaining, with amendments  
Article 5 - Finance, Property, and Procurement  
Section(s) 26-6  
Baltimore City Code  
(Edition 2000)

**SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the Laws of Baltimore City read as follows:

**Baltimore City Code**

**Article 5. Finance, Property, and Procurement**

**Subtitle 26. Living Wages for Work Under Service Contracts**

**§ 26-6. Living wages - Overtime.**

(a) *Payment required.*

The service contractor shall pay the service worker compensation at the overtime rates established by the Board of Estimates, which shall not be less than 1½ times the regular hourly rate of pay, for all hours worked in excess of 8 hours in any work day, or 40 hours in any work week.

**EXPLANATION:** CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

**Council Bill 11-0693**

1 (b) *How computed.*

2 Overtime hours, however, shall not be compensated for more than once and overtime  
3 shall be paid only on the regular hourly rate of pay and not on the fringe benefits, other  
4 personnel costs, or their cash equivalents.

5 (c) *EXEMPTION FOR WORKERS RECEIVING COMMISSIONS.*

6 (1) NO ~~EMPLOYER~~ SERVICE CONTRACTOR SHALL BE DEEMED TO HAVE VIOLATED  
7 SUBSECTION (A) OF THIS SECTION BY EMPLOYING ANY ~~EMPLOYEE OF A RETAIL OR~~  
8 ~~SERVICE ESTABLISHMENT~~ SERVICE WORKER FOR A WORKWEEK OR WORKDAY IN  
9 EXCESS OF THE APPLICABLE WORKWEEK OR WORKDAY SPECIFIED THEREIN, IF:

10 (i) THE ~~EMPLOYEE'S~~ SERVICE WORKER'S REGULAR RATE OF PAY (HOURLY RATE  
11 PLUS COMMISSION) IS IN EXCESS OF ONE AND ONE-HALF TIMES THE LIVING  
12 HOURLY WAGE RATE ESTABLISHED BY THE BOARD OF ESTIMATES, AND

13 (ii) MORE THAN HALF THE ~~EMPLOYEE'S~~ SERVICE WORKER'S COMPENSATION FOR A  
14 REPRESENTATIVE PERIOD (NOT LESS THAN ONE MONTH) REPRESENTS  
15 COMMISSIONS ON GOODS OR SERVICES.

16 (2) IN DETERMINING THE PROPORTION OF COMPENSATION REPRESENTING COMMISSIONS,  
17 ALL EARNINGS RESULTING FROM THE APPLICATION OF A BONA FIDE COMMISSION RATE  
18 SHALL BE DEEMED COMMISSIONS ON GOODS OR SERVICES WITHOUT REGARD TO  
19 WHETHER THE COMPUTED COMMISSIONS EXCEED THE DRAW OR GUARANTEE (AS  
20 THOSE TERMS ARE USED IN THE FEDERAL FAIR LABOR STANDARDS ACT).

21 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
22 are not law and may not be considered to have been enacted as a part of this or any prior  
23 Ordinance.

24 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
25 after the date it is enacted.

**Council Bill 11-0693**

Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City