

**CITY OF BALTIMORE
COUNCIL BILL 11-0693
(First Reader)**

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

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Labor
Commissioner, Wage Commission

A BILL ENTITLED

1 AN ORDINANCE concerning

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

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

8 BY repealing and reordaining, with amendments

9 Article 5 - Finance, Property, and Procurement

10 Section(s) 26-6

11 Baltimore City Code

12 (Edition 2000)

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

15 **Baltimore City Code**

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

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

18 **§ 26-6. Living wages - Overtime.**

19 (a) *Payment required.*

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

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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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 SHALL BE DEEMED TO HAVE VIOLATED SUBSECTION (A) OF THIS
7 SECTION BY EMPLOYING ANY EMPLOYEE OF A RETAIL OR SERVICE ESTABLISHMENT FOR
8 A WORKWEEK IN EXCESS OF THE APPLICABLE WORKWEEK SPECIFIED THEREIN, IF:

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

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

15 (2) IN DETERMINING THE PROPORTION OF COMPENSATION REPRESENTING COMMISSIONS,
16 ALL EARNINGS RESULTING FROM THE APPLICATION OF A BONA FIDE COMMISSION RATE
17 SHALL BE DEEMED COMMISSIONS ON GOODS OR SERVICES WITHOUT REGARD TO
18 WHETHER THE COMPUTED COMMISSIONS EXCEED THE DRAW OR GUARANTEE.

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

22 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
23 after the date it is enacted.