


**Illinois REALTORS®
Association Executive
Legal Update 2016**
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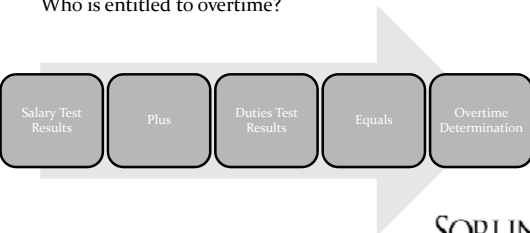


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Topic 1: Workplace Changes

New Overtime Rule – December 1, 2016

Who is entitled to overtime?



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Salary Test is Changing

	Currently	December 1, 2016
Salary	\$455 (weekly) (\$23,660)	\$913 (weekly) (\$47,476)
Adjusts	No	Yes – Every 3 years (January 1, 2020)

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Duties Test is Not Changing

- Need to qualify as one of the following to be exempt:
 - Executive
 - Administrative

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Executive

- Primary Duty:
 - Managing a department.
 - Direct work of 2.
 - Ability to influence employment decisions.

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Administrator

- Primary Duty:
 - Office work related to management of entity.
 - Exercises discretion or judgment matters of significance.

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Options for avoiding OT

- Increase salary to minimum.
- Watch hours worked.
 - No OT without permission.
 - Adjust time within work week.

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Other Workplace Legislation of Interest

- Illinois Equal Pay Act (820 ILCS 112)
 - Now applies to all employers regardless of size.
 - No sex discrimination in wages for same or substantially similar work.
 - DOL can collect civil penalties for each violation (\$500 - \$5,000).

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Other Workplace Legislation of Interest

- Veterans Preference in Private Employment Act (330 ILCS 56)
 - Private employers may adopt and apply a veterans preference policy.
 - Must be in writing and posted.
 - Applicants notified.
 - Uniformly applied.

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Other Workplace Legislation of Interest

- Medical Marijuana (410 ILCS 130/50)
 - Can still enforce drug testing, zero-tolerance, or drug free workplace policies.
 - Can still discipline for violating workplace policy.
 - Not a drug testing “defense.”
 - Impairment is based on articulatable behaviors – speech, agility, demeanor, accidents, etc. – but must give employee reasonable opportunity to contest.

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Topic 2: Association Governance

- The importance of following bylaws.
 - *Alliance Property Management, Ltd. v. Forest Villa of Countryside Condominium Association*, 400 Ill. Dec. 177 (1st Dist. 2015).
 - ByLaw: No authority to hire manager for more than 24 months.
 - 36- month agreement signed.
 - Contract void.
 - Business judgment rule does not apply when there is an overt violation of bylaws.

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Take away point from *Alliance*.

- Know your bylaws.
- Follow your bylaws.
- Think carefully about making bylaws too specific concerning entering into business agreements.

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Do you know your bylaws?

- Notice of meetings?
- Quorum for meetings?
- Electronic transaction of business authorization?
- Informal action authorization?
- Contract signing authority designated?
- Director term limits?
- Balloting rules?
- Removal protocols for officers/directors observed?

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Topic 3: Operational Issues

- ADA-Website accessibility.
 - The concerns: Does the ADA require us to have websites accessible to those with visual, hearing, and other disabilities?
 - The answer: Maybe.

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ADA – Requires “places of public accommodation” to be accessible.

- Is a website a “place”?
- If so, what is required?

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Website Accessibility

- So far, no definitive court ruling in courts with jurisdiction over Illinois.
- Department of Justice will likely argue that the answer is “yes.”

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DOJ Position

- Proposed Rules/July 2010 – Governmental Entities
 - Web Accessibility Initiative of the World Wide Web Consortium “Web Content Accessibility Guidelines” (WCAG 2.0)
 - 12 guidelines.

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WCAG 2.0

- Provide text alternatives for non-text content.
- Provide captions for multimedia.
- Create content that can be perceived in different ways.
- Make it easier to see and hear content.
- Make all functionality available from keyboard.
- Give enough time to read and use content.

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WCAG 2.0 (continued)

- Avoid seizure inducing contents.
- Provide navigation assistance.
- Make text readable and understandable.
- Make content operate in predictable ways.
- Help users correct mistakes.
- Maximize compatibility with user tools.

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Should we be concerned?

- Litigation focus on websites that sell product.
- DOJ says no rules until 2018.
- If you are redesigning website – worth discussing with web designer.

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Topic 4: Other Issues of Industry Interest

- Drones
 - FAA has published commercial drone use rules – effective August 29, 2016.
 - NAR has a FAQ link www.realtor.org/law-and-ethics/faws-for-small-unmanned-aircraft-rule.
 - Will still need remote pilot license.
 - License requires renewal every 24 months.
 - Operation limitations imposed – height, speed, visual contact.
 - Doesn't address privacy concerns.

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- TRID
 - TRID went live on October 3, 2015.
 - No significant changes since October 3.
 - Agent's role as a facilitator – prevent breakdowns in communications.
 - Still too early to assess.

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Questions?

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