

NATIONAL ASSOCIATION OF REALTORS®
Human Resources Tool Kit

Legal: Fair Labor Standards Act Eligibility Information

The Fair Labor Standards Act (FLSA) contains minimum wage, maximum hour and child labor provisions. There are three basic tests to determine whether an individual is covered by the act. If any one of the tests is satisfied, the act applies. The first two tests look at the activities of the employee to determine coverage, whereas the third test focuses on the activities of the business enterprise.

1. An employee is covered if she is engaged in interstate commerce. An employee is considered to be engaged in interstate commerce if she regularly uses any of the instruments of interstate communication (such as the mail or telephone), purchases or orders goods from other states, handles goods received from other states, or travels across state lines in the performance of her duties. “Goods” include reports, contracts, credit instruments and letters.
2. Coverage is provided to any employee engaged in the production of goods for interstate commerce.
3. Any employee of an enterprise engaged in the production of goods in commerce or that uses instrumentalities of interstate commerce in its business is covered.

This “enterprise” test would include employees of associations, provided the association’s gross income amounts to \$250,000 or more per year and the interstate commerce requirement is met.