

# EMPLOYMENT LAW SUMMARY

## Florida Wage and Hour Laws



The Fair Labor Standards Act (FLSA) regulates minimum wage, overtime and work hour requirements for most employees. Florida law supplements federal regulations and in some instances provides more stringent requirements that employers must follow. The Florida [Department of Economic Opportunity](#) (DEO) enforces and investigates wage and hour violation claims in the state.

### Minimum Wage

On Nov. 3, 2020, voters in Florida [approved](#) a [constitutional amendment](#) that will raise the state minimum wage rate each year until it reaches \$15 per hour in 2026. The amendment did not change the tip credit Florida allows employers to deduct from their tipped employees. Since this credit will remain at \$3.02, projected minimum wage rates for tipped employees are also included in the table below.

Effective Date	Sept. 30, 2023	Sept. 30, 2024	Sept. 30, 2025	Sept. 30, 2026
Minimum Rate (per hour)	\$12	\$13	\$14	\$15
Tipped Employee (per hour)	\$8.98	\$9.98	\$10.98	\$11.98

Beginning in 2027, the state minimum wage rate will be adjusted annually by the DEO. The Florida Minimum Wage Act (FMWA) requires the DEO to calculate a minimum wage rate each year, based on the rate of inflation for the previous 12-month period.

Florida has adopted FLSA exemptions for minimum wage payment requirements. These exemptions allow employers to pay certain individuals at rates below the minimum wage rate.

### Regular Work Hours and Overtime Pay

Even though Florida recognizes a 10-hour day as a legal day's work, it has adopted the 40-hour workweek (seven consecutive calendar days) as the basis to calculate overtime pay. The hours an employee works during one workweek may not offset the hours worked in previous or future workweeks. Overtime pay in Florida follows FLSA regulations. In general, employees are entitled to receive one and one-half times their regular wage rate for work performed during overtime hours. However, employers in Florida should be aware that the FLSA allows some exemptions for the 40-hour workweek.

### Method of Payment

Florida allows employers to pay employee wages with check, draft, note, payroll debit card or any other instrument as long as it is payable in cash, on demand, without discount and at no cost to the employee. Employers may not give their employees wage payment instruments when they have insufficient funds or credit to cover the payments.

Employers may also pay employee wages in cash and through electronic fund transfer (direct deposit). Employers that choose to pay employee wages through electronic fund transfer, must first obtain written employee authorization for the electronic transfer and deposit wages directly into employee account at institutions of the employees' choice. Employers may not discriminate against any employee who refuses to participate in a direct deposit program.

## **Payments to Deceased Employees**

In the case of an employee's death, Florida requires employers to pay unclaimed wages to the employee's surviving spouse. If there is no surviving spouse, employers must pay unclaimed wages to the decedent's adult children or parents (if there are no surviving children).

Unclaimed wages are defined as compensation that an employee has not claimed for more than one year after the wages become due and payable.

## **Required Posting**

Employers must post a current minimum wage notice in a prominent, conspicuous and accessible place in each establishment where employees regularly pass by and can see it.

## **Retaliation**

Employers may not retaliate in any manner against employees who enforce their rights under the state's wage and hour laws, including the rights to file a complaint, report or inform any person of employer wage and hour law violations and to assist a third party in the investigation of wage and hour law violations.

## **Penalties**

Employers that violate minimum wage laws are subject to civil liability through lawsuits filed by either Florida's Attorney General or individual employees. Employees may recover the full amount of any back wages, an amount equal to back wages in liquidated damages, reasonable attorney fees and court costs in addition to any other relief a court may consider appropriate.

Employers who willfully violate minimum wage laws may be also subject to a fine of \$1,000 for each violation.

## **More Information**

Contact Heffernan Insurance Brokers for more information on employment laws in Florida.

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