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Florida eAuthority

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Florida's Minimum Wage to Increase on January 1, 2012

by [Edmund J. McKenna](#)

On November 2, 2004, Florida voters approved a constitutional amendment that created Florida's minimum wage. The minimum wage applies to all employees in the state who are covered by the federal minimum wage. Florida law requires a new minimum wage calculation each year on September 30, based on the Consumer Price Index. If that calculation is higher than the federal rate, the state's rate then would take effect the following January.

Florida's minimum wage is currently \$7.31 per hour, effective June 1, 2011. According to our discussions with the state, beginning January 1, 2012, Florida's minimum wage will be \$7.67 per hour, which is a 4.9% (or \$0.36) increase from last year due to the change in the Consumer Price Index.

Employers of "tipped employees" who meet eligibility requirements for the tip credit under the Fair Labor Standards Act (FLSA) may count tips actually received as wages under the FLSA. However, the employer must pay "tipped employees" a direct wage. Effective January 1, 2012, the new minimum wage for tipped employees should become \$4.65 per hour plus tips.

The state will issue a press release on October 15, 2011, confirming the rates. In deciding whether the federal or state minimum wage applies, federal law directs that businesses must pay the higher of the two. The Florida minimum wage will prevail over the federal rate until (and unless) the federal minimum wage becomes higher than the state rate.

Employers must pay their employees the hourly state minimum wage for all hours worked in Florida. The definitions of "employer," "employee" and "wage" for state purposes are the same as those established under the FLSA.

Employees who are not paid the minimum wage may bring a civil action against the employer or any person violating Florida's minimum wage law. The state attorney general also may bring an action to enforce the minimum wage.

Additional Information

Should you have any questions about the new minimum wage, please contact the Ogletree Deakins attorney with whom you normally work or the Client Services Department at 866-287-2576 or via email at clientservices@ogletreedeakins.com.