



## Legal Alert: Amendment to California Law Eliminates Overtime Pay for Certain Computer Software Employees

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California Governor Arnold Schwarzenegger recently signed into law an amendment of California's Labor Code, which provides that employees in the computer software field are not entitled to overtime pay if they meet certain requirements. Under AB 10, employees in the computer software field are not entitled to overtime pay if they earn at least \$36.00 per hour or have an annual salary of not less than \$75,000 for full-time employment, which is paid at least once a month and in a monthly amount of not less than \$6,250.

To qualify for the exemption, these employees must be primarily engaged in work that is "intellectual or creative" and that requires the exercise of discretion and independent judgment. Additionally, the employees must perform specific types of duties, such as systems analysis, programming, or software designing and must be highly skilled and proficient "in the theoretical and practical application of highly specialized information to computer systems analysis, programming, or software engineering."

California's prior law exempted employees in the computer software field from overtime pay if they were compensated at \$36.00 per hour or received an annual salary that was equivalent to \$36.00 per hour. Because of ambiguities in the prior law, plaintiffs' lawyers argued that employers who used the exemption were required to track the hours worked by these employees. The amendment clarifies the prior law by specifying an annual salary above which qualified employees are not entitled to overtime pay and, thus, eliminates the need to track the hours worked by these employees.

### **Employers' Bottom Line:**

The amendment provides much needed clarification of the California law and is good news for California employers whose employees qualify for this exemption. If you have any questions regarding the amendment or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.