

Resolution No. 2

Date: September 25, 2008
City: San Diego, California

NAHB Resolution

Title: Fair Labor Standards Act and Overtime Pay
Original Sponsor: High Production Home Builders Council

WHEREAS, the U.S. Department of Labor promulgates rules under the Fair Labor Standards Act that establish overtime requirements for workers in the private sector;

WHEREAS, professional, executive and certain administrative workers are exempt under these rules, and are not paid for overtime;

WHEREAS, in recent years lawsuits have been filed against home builders by employees alleging that they are not exempt employees and are, therefore, entitled to overtime pay;

WHEREAS, home builders currently are defending themselves against lawsuits filed by “construction superintendents,” “project superintendents” or “field managers” alleging that they are not exempt employees and are, therefore, entitled to overtime pay; and

WHEREAS, an adverse decision in any of these cases could result in a significant financial impact on home builders, requiring these employees to henceforth be paid for overtime wages, and possibly providing an inducement for these employees to file suit for back overtime pay,

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders provide information to the U.S. Department of Labor (DOL) to assist it in determining whether home building employees are exempt under the overtime rules promulgated under the Fair Labor Standards Act; and

BE IT FURTHER RESOLVED that NAHB urge DOL to issue a formal opinion that those individuals employed by home building companies to supervise and coordinate on-site construction – often referred to as “construction superintendents,” “project superintendents” or “field managers” – are exempt under the overtime rules promulgated under the Fair Labor Standards Act.

Board of Directors Action:	Approved
Executive Board Action:	Recommends Approval
Resolutions Committee Action:	Recommends Approval
Custom Home Builders Committee Action:	Recommends Approval
Single Family Production Builders Committee Action:	Recommends Approval
Single Family Small Volume Builders Committee Action:	Recommends Approval
Business Management & Information Technology Committee Action:	Recommends Approval
High Production Home Builders Council Action:	Recommends Approval