



U.S. Supreme Court Votes Unanimously to Affirm Reclassification of Loan Officers As Non-Exempt Employees

Mortgage loan officers are now entitled to a 40-hour work week and overtime pay. On Monday March 9, 2015 the Supreme Court announced a ruling that the Department of Labor was within its rights to reclassify loan officers as non-exempt employees. This decision is causing considerable consternation and confusion for loan officers and their employers.

The controversy started three years ago, however the issue has been around since 2006 when the Department of Labor considered loan officers to be exempt employees which meant employers were not required to pay these workers overtime to comply with federal labor standards.

In 2010 the Department of Labor upended that decision with a ruling that held that loan officers do not qualify for the exemption under the Fair Labor Standards Act.

The change prompted the Mortgage Bankers Association to file suit. In that lawsuit the MBA claimed that the 2010 interpretation of the rule violated the Administrative Procedures Act (APA) by failing to follow procedures already laid out for changing significant rules. The U.S. Court of Appeals for the District of Columbia agreed with the MBA and vacated the Department of Labor's 2010 interpretation of the compensation rule. The Supreme Court reversed that decision, having determined that the APA exempts the issuance of interpretive rules from the APA requirements. (*Perez, Secretary of Labor v. Mortgage Bankers Association*)

Barring further developments, mortgage firms are most likely to follow the Department of Labor's 2010 interpretation of the rule and recognize loan officers as non-exempt employees eligible for overtime compensation.

If you have any questions, please contact Bob Skalstad, CATIC's Director of Industry Relations at (860) 513-3140 or bskalstad@catic.com.