

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1265 Session of 2015

INTRODUCED BY WHITE, GREENLEAF, STEFANO, TOMLINSON, EICHELBERGER, WAGNER AND VOGEL, MAY 13, 2016

AS AMENDED ON THIRD CONSIDERATION, JUNE 23, 2016

AN ACT

1 Amending the act of December 19, 1975 (P.L.604, No.173),
2 entitled "An act to facilitate the use of electronic funds
3 transfer systems by providing that credits to accounts in
4 financial institutions designated by recipients shall satisfy
5 legal requirements for payments by cash or checks," further
6 providing for electronic funds transfers; providing for
7 definitions; further providing for consumer protections;
8 providing for payroll card accounts and for coordination with <--
9 Federal law; and making editorial changes.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 1 of the act of December 19, 1975
13 (P.L.604, No.173), entitled "An act to facilitate the use of
14 electronic funds transfer systems by providing that credits to
15 accounts in financial institutions designated by recipients
16 shall satisfy legal requirements for payments by cash or
17 checks," is amended to read:

18 [Section 1. For the purposes of any statute, rule or
19 regulation requiring any payment to be made in lawful money or
20 by check, whether for wages, salaries, commissions or other
21 claims of any kind, such payment may be made by credit to an

1 account in a bank, credit union or other financial institution  
2 authorized to accept deposits or payments designated by the  
3 recipient of such payment if the recipient has requested such  
4 method of payment in writing.]

5 Section 1. Definitions.

6 The following words and phrases when used in this act shall  
7 have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Financial institution." A bank, savings association or  
10 credit union.

11 "Payroll card account." An account that is directly or  
12 indirectly established through an employer, to which transfers  
13 of the employee's wages, salary, COMMISSIONS or other <--  
14 compensation are made.

15 "Record." As defined in section 103 of the act of December <--  
16 16, 1999 (P.L.971, No.69), known as the Electronic Transactions  
17 Act.

18 Section 2. The act is amended by adding a section to read:

19 Section 1.1. Electronic funds transfers.

20 For the purposes of any statute, rule or regulation requiring  
21 any payment to be made in lawful money or by check, whether for  
22 wages, salaries, commissions or other compensation, if the <--  
23 recipient of the payment makes a request in a record CLAIMS OF <--  
24 ANY KIND, the payment may be made by credit to an account in a  
25 financial institution, including a payroll card account,  
26 authorized to accept deposits or payments by IF the recipient <--  
27 HAS AUTHORIZED THE METHOD OF PAYMENT IN WRITING OR <--  
28 ELECTRONICALLY.

29 Section 3. Section 2 of the act is amended to read:

30 [Section 2. Every such request, as described in section 1,

1 shall be effective provided that:

2 (i) the written agreement shall set forth all terms and  
3 conditions under which such transfers are to be made and the  
4 terms and conditions as to the method or methods to be used by  
5 which a wage-earner may withdraw such request and terminate the  
6 agreement; and

7 (ii) no funds transferred pursuant to a request as described  
8 in section 1, shall be transferred by any employer or other  
9 person to any account unless the party authorizing the transfer  
10 of such funds shall have received a separate written record of  
11 each such transfer at or prior to the time thereof.]

12 Section 2. Consumer protections.

13 ~~When wages, salaries, commissions or other compensation are~~ <--  
14 ~~transferred to an account at a financial institution as~~  
15 ~~described in section 1, the financial institution shall provide~~  
16 ~~the employee with disclosures, notice of transfers, access to~~  
17 ~~account information and other consumer protections in accordance~~  
18 ~~with 12 CFR Part 1005 (relating to electronic fund transfers~~  
19 ~~(Regulation E)).~~

20 WHEN WAGES, SALARIES, COMMISSIONS OR OTHER PAYMENTS ARE <--  
21 TRANSFERRED TO AN ACCOUNT AT A FINANCIAL INSTITUTION AS  
22 DESCRIBED IN SECTION 1:

23 (1) THE FINANCIAL INSTITUTION HOLDING THE ACCOUNT TO  
24 WHICH TRANSFERS ARE MADE SHALL PROVIDE THE EMPLOYEE OR OTHER  
25 PAYEE WITH THE DISCLOSURES, NOTICES OF TRANSFER, CHANGE IN  
26 TERM NOTICES, ACCESS TO ACCOUNT INFORMATION AND OTHER  
27 CONSUMER PROTECTIONS TO THE EXTENT REQUIRED BY 12 CFR PART  
28 1005 (RELATING TO ELECTRONIC FUND TRANSFERS (REGULATION E));  
29 AND

30 (2) AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH A WRITTEN

OR ELECTRONIC STATEMENT OF EARNINGS AND DEDUCTIONS EACH PAY PERIOD IN ACCORDANCE WITH APPLICABLE LAW.

Section 4. The act is amended by adding sections to read:

Section 2.1. Payroll card accounts.

~~The~~ IN ADDITION TO ANY OTHER REQUIREMENTS UNDER THIS ACT, ALL <--  
OF THE FOLLOWING PROVISIONS APPLY WHEN payment of wages,  
salaries or, commissions OR OTHER COMPENSATION IS MADE through a <--  
transfer into TRANSFERS TO a payroll card account shall be <--  
effective for purposes of section 1.1 if: <--

(1) ~~the~~ THE employee has been SHALL BE issued a payroll <--  
card in accordance with 12 CFR Part 1005 (relating to  
electronic fund transfers (Regulation E)) <--

(2) ~~the~~ THE payroll card account is SHALL BE established <--  
at a federally insured financial institution; and WHOSE FUNDS <--  
ARE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR  
THE NATIONAL CREDIT UNION ADMINISTRATION.

(3) NO EMPLOYER MAY MAKE THE PAYMENT OF WAGES, SALARY,  
COMMISSIONS OR OTHER COMPENSATION BY MEANS OF A PAYROLL CARD  
ACCOUNT A CONDITION OF EMPLOYMENT OR A CONDITION FOR THE  
RECEIPT OF ANY BENEFIT OR OTHER FORM OF REMUNERATION FOR ANY  
EMPLOYEE.

(4) PRIOR TO OBTAINING AN EMPLOYEE'S AUTHORIZATION, THE  
EMPLOYER SHALL PROVIDE THE EMPLOYEE WITH NOTICE, IN WRITING  
OR ELECTRONICALLY, OF ALL OF THE FOLLOWING:

(I) ALL OF THE EMPLOYEE'S WAGE PAYMENT OPTIONS.

(II) THE TERMS AND CONDITIONS OF THE PAYROLL CARD  
ACCOUNT OPTION, INCLUDING THE FEES THAT MAY BE DEDUCTED  
FROM THE EMPLOYEE'S PAYROLL CARD ACCOUNT BY THE CARD  
ISSUER.

(III) A NOTICE THAT THIRD PARTIES MAY ASSESS FEES IN

1 ADDITION TO THE FEES ASSESSED BY THE CARD ISSUER.

2 (IV) THE METHODS AVAILABLE TO THE EMPLOYEE FOR ACCESSING  
3 WAGES WITHOUT FEES.

4 ~~(3) the~~ (5) THE payroll card account provides SHALL <--  
5 PROVIDE the employee with the ability to make at least one  
6 withdrawal each pay period without charge for any amount up  
7 to and including the full amount of the employee's net wages  
8 for that pay period, except that an employee paid more  
9 frequently than weekly must be provided the ability to make  
10 at least one withdrawal from the payroll card account each  
11 week without cost for any amount up to and including the full  
12 amount of the employee's net wages for that week.

13 ~~Section 2.2. Coordination with Federal Law.~~ <--

14 ~~This act modifies, limits or supersedes the Electronic~~  
15 ~~Signatures in Global and National Commerce Act (Public Law 106-~~  
16 ~~229, 15 U.S.C. § 7001 et seq.). This act does not modify, limit~~  
17 ~~or supersede section 101(c) of the Electronic Signatures in~~  
18 ~~Global and National Commerce Act (Public Law 106 229, 15 U.S.C.~~  
19 ~~§ 7001(c)), if otherwise applicable, or authorize electronic~~  
20 ~~delivery of any notices described in section 103(b) of the~~  
21 ~~Electronic Signatures in Global and National Commerce Act~~  
22 ~~(Public Law 106 229, 15 U.S.C. § 7003(b)).~~

23 (6) THE PAYROLL CARD ACCOUNT SHALL PROVIDE THE EMPLOYEE <--  
24 WITH A MEANS OF ASCERTAINING THE BALANCE IN THE EMPLOYEE'S  
25 PAYROLL CARD ACCOUNT THROUGH AN AUTOMATED TELEPHONE SYSTEM OR  
26 OTHER ELECTRONIC MEANS WITHOUT COST TO THE EMPLOYEE.

27 (7) IN ADDITION TO THE FEES PROHIBITED UNDER PARAGRAPHS  
28 (5) AND (6), AN EMPLOYER MAY NOT USE A PAYROLL CARD ACCOUNT  
29 THAT CHARGES FEES TO THE EMPLOYEE FOR ANY OF THE FOLLOWING:

30 (I) THE APPLICATION, INITIATION OR PRIVILEGE OF

1 PARTICIPATING IN THE PAYROLL CARD PROGRAM.

2 (II) THE ISSUANCE OF THE INITIAL PAYROLL CARD.

3 (III) THE ISSUANCE OF ONE REPLACEMENT CARD PER  
4 CALENDAR YEAR UPON REQUEST OF THE EMPLOYEE.

5 (IV) THE TRANSFER OF WAGES, SALARY, COMMISSIONS OR  
6 OTHER COMPENSATION FROM THE EMPLOYER TO THE PAYROLL CARD  
7 ACCOUNT.

8 (V) PURCHASE TRANSACTIONS AT THE POINT OF SALE.

9 (8) THE FUNDS IN A PAYROLL CARD ACCOUNT SHALL NOT  
10 EXPIRE. IF A PAYROLL CARD HAS AN EXPIRATION DATE DURING THE  
11 PERIOD WHEN WAGES, SALARY OR OTHER COMPENSATION ARE APPLIED  
12 TO THE PAYROLL CARD ACCOUNT BY THE EMPLOYER AND FOR 60 DAYS  
13 AFTER THE LAST TRANSFER OF WAGES, SALARY, COMMISSIONS OR  
14 OTHER COMPENSATION TO THE ACCOUNT, THE EMPLOYEE SHALL BE  
15 PROVIDED A REPLACEMENT CARD WITHOUT COST PRIOR TO THE  
16 EXPIRATION DATE, UNLESS PRIOR TO THAT DATE THE ACCOUNT  
17 BECOMES SUBJECT TO THE CUSTODY AND CONTROL OF THE  
18 COMMONWEALTH UNDER ARTICLE XIII.1 OF THE ACT OF APRIL 9, 1929  
19 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, OR PURSUANT TO  
20 THE UNCLAIMED PROPERTY OR ESCHEAT LAW OF ANOTHER STATE, THE  
21 DISTRICT OF COLUMBIA OR A TERRITORY OF THE UNITED STATES.

22 (9) THE EMPLOYER SHALL HONOR AN EMPLOYEE'S WRITTEN OR  
23 ELECTRONIC REQUEST TO CHANGE THE EMPLOYEE'S METHOD OF  
24 RECEIVING WAGES FROM A PAYROLL CARD ACCOUNT TO DIRECT DEPOSIT  
25 OR NEGOTIABLE CHECK. THE CHANGE SHALL TAKE EFFECT AS SOON AS  
26 PRACTICABLE, BUT NO LATER THAN THE FIRST PAYDAY AFTER 14 DAYS  
27 FROM RECEIPT BY THE EMPLOYER OF THE EMPLOYEE'S REQUEST AND  
28 ANY INFORMATION NECESSARY TO IMPLEMENT THE CHANGE.

29 (10) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PREEMPT  
30 OR OVERRIDE THE TERMS OF ANY COLLECTIVE BARGAINING AGREEMENT

1 WITH RESPECT TO THE METHODS BY WHICH AN EMPLOYER PROVIDES  
2 PAYMENT OF WAGES, SALARY, COMMISSIONS OR OTHER COMPENSATION  
3 TO EMPLOYEES.

4 Section 5. Sections 3 and 4 of the act are amended to read:

5 [Section 3. This act shall supersede any inconsistent  
6 provision of any other statute, rule or regulation.]

7 Section 3. Construction.

8 This act shall supersede any inconsistent provision of any  
9 other statute, rule or regulation.

10 [Section 4. This act shall take effect immediately.]

11 Section 4. Effective date.

12 This act shall take effect immediately.

13 ~~Section 6. This act shall apply to payments made before, on~~ <--  
14 ~~or after the effective date of this act.~~ AN AUTHORIZATION FOR <--  
15 THE PAYMENT OF WAGES, SALARIES OR OTHER COMPENSATION BY MEANS OF  
16 A PAYROLL CARD ACCOUNT MADE PRIOR TO THE EFFECTIVE DATE OF  
17 SECTION 2.1 OF THE ACT SHALL REMAIN VALID UNTIL THE EMPLOYEE  
18 REQUESTS A CHANGE OF PAYMENT METHOD IN ACCORDANCE WITH SECTION  
19 2.1(9) OF THE ACT.

20 Section 7. This act shall take effect ~~immediately~~ IN 90 <--  
21 DAYS.