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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1265 Session of  
2015

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

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 19, 2016

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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 making editorial  
9 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

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

6 Section 1. Definitions.

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

10 "ATM." AN AUTOMATED TELLER MACHINE. <--

11 "Financial institution." A bank, OR savings association AS <--

12 THOSE TERMS ARE DEFINED IN SECTION 1813 OF THE FEDERAL DEPOSIT  
13 INSURANCE ACT (63 STAT. 873, 12 U.S.C. § 1813), or credit union  
14 ELIGIBLE FOR INSURANCE OF MEMBER ACCOUNTS UNDER THE FEDERAL <--  
15 CREDIT UNION ACT (48 STAT. 1216, 12 U.S.C. § 1751 ET SEQ.).

16 "Payroll card account." An account that is directly or  
17 indirectly established through an employer, to which transfers  
18 of the employee's wages, salary, commissions or other  
19 compensation are made.

20 Section 2. The act is amended by adding a section to read:  
21 Section 1.1. Electronic funds transfers.

22 For the purposes of any statute, rule or regulation requiring  
23 any payment to be made in lawful money or by check, whether for  
24 wages, salaries, commissions or other claims of any kind, the  
25 payment may be made by credit to an account in a financial  
26 institution, including a payroll card account, authorized to  
27 accept deposits or payments if the recipient has authorized the  
28 method of payment in writing or 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 payments are  
14 transferred to an account at a financial institution as  
15 described in section 1.1: <--

16 (1) the financial institution holding the account to  
17 which transfers are made shall provide the employee or other  
18 payee with the disclosures, notices of transfer, change in  
19 term notices, access to account information and other  
20 consumer protections to the extent required by 12 CFR Part  
21 1005 (relating to electronic fund transfers (Regulation E));  
22 and

23 (2) an employer shall provide an employee with a written  
24 or electronic statement of earnings and deductions each pay  
25 period in accordance with applicable law.

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

27 Section 2.1. Payroll card accounts.

28 In addition to any other requirements under this act, all of  
29 the following provisions apply when payment of wages, salaries,  
30 commissions or other compensation is made through transfers to a

1 payroll card account:

2 (1) The employee shall be issued a payroll card in  
3 accordance with 12 CFR Part 1005 (relating to electronic fund  
4 transfers (Regulation E)).

5 (2) The payroll card account shall be established at a  
6 financial institution whose funds are insured by the Federal  
7 Deposit Insurance Corporation or the National Credit Union  
8 Administration.

9 (3) No employer may make the payment of wages, salary,  
10 commissions or other compensation by means of a payroll card  
11 account a condition of employment or a condition for the  
12 receipt of any benefit or other form of remuneration for any  
13 employee.

14 (4) Prior to obtaining an employee's authorization, the  
15 employer shall provide the employee with CLEAR AND <--  
16 CONSPICUOUS notice, in writing or electronically, of all of  
17 the following:

18 (i) All of the employee's wage payment options.

19 (ii) The terms and conditions of the payroll card  
20 account option, including the fees that may be deducted  
21 from the employee's payroll card account by the card  
22 issuer.

23 (iii) A notice that third parties may assess fees in  
24 addition to the fees assessed by the card issuer.

25 (iv) The methods available to the employee for  
26 accessing wages without fees.

27 ~~(5) The payroll card account shall provide the employee~~ <--  
28 ~~with the ability to make at least one withdrawal AND ONE IN-~~ <--  
29 ~~NETWORK ATM WITHDRAWAL each pay period without charge for any~~  
30 ~~amount up to and including the full amount of the employee's~~

~~net wages for that pay period, except that an employee paid more frequently than weekly must be provided the ability to make at least one withdrawal from the payroll card account each week without cost for any amount up to and including the full amount of the employee's net wages for that week.~~

(5) THE PAYROLL CARD ACCOUNT SHALL PROVIDE THE EMPLOYEE WITH THE ABILITY WITHOUT CHARGE TO MAKE: <--

(I) AT LEAST ONE WITHDRAWAL EACH PAY PERIOD FOR ANY AMOUNT UP TO AND INCLUDING THE FULL AMOUNT OF THE EMPLOYEE'S NET WAGES FOR THAT PERIOD OR ONE SUCH WITHDRAWAL WEEKLY IF THE EMPLOYEE IS PAID MORE FREQUENTLY THAN WEEKLY.

(II) ONE IN-NETWORK ATM WITHDRAWAL EACH PAY PERIOD OR ONE SUCH WITHDRAWAL WEEKLY IF THE EMPLOYEE IS PAID MORE FREQUENTLY THAN WEEKLY.

(6) The payroll card account shall provide the employee with a means of ascertaining the balance in the employee's payroll card account through an automated telephone system or other electronic means without cost to the employee.

(7) In addition to the fees prohibited under paragraphs (5) and (6), an employer may not use a payroll card account that charges fees to the employee for any of the following:

(i) The application, initiation or privilege of participating in the payroll card program.

(ii) The issuance of the initial payroll card.

(iii) The issuance of one replacement card per calendar year upon request of the employee.

(iv) The transfer of wages, salary, commissions or other compensation from the employer to the payroll card account.

1           (v) Purchase transactions at the point of sale.

2           (VI) NONUSE OR INACTIVITY IN A PAYROLL CARD ACCOUNT <--  
3           CONSISTING OF THE FAILURE TO WITHDRAW FUNDS FROM AN  
4           ACCOUNT, DEPOSIT FUNDS INTO AN ACCOUNT, TRANSFER FUNDS TO  
5           ANOTHER PERSON OR USE AN ACCOUNT FOR PURCHASE  
6           TRANSACTIONS, IF THE NONUSE OR INACTIVITY IS LESS THAN 12  
7           MONTHS IN DURATION.

8           (8) The funds in a payroll card account shall not  
9           expire. If a payroll card has an expiration date during the  
10           period when wages, salary or other compensation are applied  
11           to the payroll card account by the employer and for 60 days  
12           after the last transfer of wages, salary, commissions or  
13           other compensation to the account, the employee shall be  
14           provided a replacement card without cost prior to the  
15           expiration date, unless prior to that date the account  
16           becomes subject to the custody and control of the  
17           Commonwealth under Article XIII.1 of the act of April 9, 1929  
18           (P.L.343, No.176), known as The Fiscal Code, or pursuant to  
19           the unclaimed property or escheat law of another state, the  
20           District of Columbia or a territory of the United States.

21           (9) The employer shall honor an employee's written or  
22           electronic request to change the employee's method of  
23           receiving wages from a payroll card account to direct deposit  
24           or negotiable check. The change shall take effect as soon as  
25           practicable, but no later than the first payday after 14 days  
26           from receipt by the employer of the employee's request and  
27           any information necessary to implement the change.

28           (10) Nothing in this section may be construed to preempt  
29           or override the terms of any collective bargaining agreement  
30           with respect to the methods by which an employer provides

1 payment of wages, salary, commissions or other compensation  
2 to employees.

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

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

6 Section 3. Construction.

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

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

10 Section 4. Effective date.

11 This act shall take effect immediately.

12 Section 6. An authorization for the payment of wages,  
13 salaries or other compensation by means of a payroll card  
14 account made prior to the effective date of section 2.1 of the  
15 act shall remain valid until the employee requests a change of  
16 payment method in accordance with section 2.1(9) of the act.

17 Section 7. This act shall take effect in ~~90~~ 180 days.

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