

**CREDITS TO ACCOUNTS IN FINANCIAL INSTITUTIONS - ELECTRONIC FUNDS
TRANSFERS, CONSUMER PROTECTIONS AND PAYROLL CARD ACCOUNTS**

Act of Nov. 4, 2016, P.L. 1210, No. 161

Cl. 07

Session of 2016
No. 2016-161

SB 1265

AN ACT

Amending the act of December 19, 1975 (P.L.604, No.173), entitled "An act to facilitate the use of electronic funds transfer systems by providing that credits to accounts in financial institutions designated by recipients shall satisfy legal requirements for payments by cash or checks," further providing for electronic funds transfers; providing for definitions; further providing for consumer protections; providing for payroll card accounts; and making editorial changes.

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

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

[Section 1. For the purposes of any statute, rule or regulation requiring any payment to be made in lawful money or by check, whether for wages, salaries, commissions or other claims of any kind, such payment may be made by credit to an account in a bank, credit union or other financial institution authorized to accept deposits or payments designated by the recipient of such payment if the recipient has requested such method of payment in writing.]

Section 1. Definitions.

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

"ATM." An automated teller machine.

"Financial institution." A bank or savings association as those terms are defined in section 1813 of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. § 1813) or credit union eligible for insurance of member accounts under the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751 et seq.).

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

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

Section 1.1. Electronic funds transfers.

For the purposes of any statute, rule or regulation requiring any payment to be made in lawful money or by check, whether for wages, salaries, commissions or other claims of any kind, the payment may be made by credit to an account in a financial

institution, including a payroll card account, authorized to accept deposits or payments if the recipient has authorized the method of payment in writing or electronically.

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

[Section 2. Every such request, as described in section 1, shall be effective provided that:

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

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

Section 2. Consumer protections.

When wages, salaries, commissions or other payments are transferred to an account at a financial institution as described in section 1.1:

(1) the financial institution holding the account to which transfers are made shall provide the employee or other payee with the disclosures, notices of transfer, change in term notices, access to account information and other consumer protections to the extent required by 12 CFR Part 1005

(relating to electronic fund transfers (Regulation E)); and

(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 a section to read:

Section 2.1. Payroll card accounts.

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

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

(2) The payroll card account shall be established at a financial institution 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 clear and conspicuous 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 addition to the fees assessed by the card issuer.

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

(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.

(v) Purchase transactions at the point of sale.

(vi) Nonuse or inactivity in a payroll card account consisting of the failure to withdraw funds from an account, deposit funds into an account, transfer funds to another person or use an account for purchase transactions, if the nonuse or inactivity is less than 12 months in duration.

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

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

(10) Nothing in this section may be construed to preempt or override the terms of any collective bargaining agreement with respect to the methods by which an employer provides payment of wages, salary, commissions or other compensation to employees.

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

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

Section 3. Construction.

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

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

Section 4. Effective date.

This act shall take effect immediately.

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

Section 7. This act shall take effect in 180 days.

APPROVED--The 4th day of November, A.D. 2016.

TOM WOLF