

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 940 Session of 2023

INTRODUCED BY FLOOD AND SIEGEL, APRIL 17, 2023

REFERRED TO COMMITTEE ON COMMERCE, APRIL 17, 2023

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, for consumer
 7 protections and for payroll card accounts.

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

10 Section 1. Sections 1.1 and 2 of the act of December 19,
 11 1975 (P.L.604, No.173), entitled "An act to facilitate the use
 12 of electronic funds transfer systems by providing that credits
 13 to accounts in financial institutions designated by recipients
 14 shall satisfy legal requirements for payments by cash or
 15 checks," are amended to read:

16 Section 1.1. Electronic funds transfers.

17 (a) Authorization.--For the purposes of any statute, rule or
 18 regulation requiring any payment to be made in lawful money or
 19 by check, whether for wages, salaries, commissions or other
 20 claims of any kind, the payment may be made by credit to an
 21 account in a financial institution, including a payroll card

1 account, authorized to accept deposits or payments if the
2 recipient has authorized the method of payment in writing or
3 electronically.

4 (b) Duties of employers.--An employer may pay all wages,
5 salaries or commissions due to an employee by credit to an
6 account in a financial institution, including a payroll card
7 account in accordance with this subsection. If the employer
8 elects to eliminate both options for an employee to receive
9 payment in lawful money or by check and offers payment only by
10 credit to an account in a financial institution, the following
11 shall apply:

12 (1) The employer shall notify the employee in clear and
13 conspicuous language that the employee will no longer have
14 the option to receive payment in lawful money or by check.

15 (2) The employee shall receive notice at least 21 days
16 prior to the date of the payday that the employee will no
17 longer have the option to receive payment in lawful money or
18 by check. The notice shall:

19 (i) clearly state that it is the employee's right to
20 designate the account in a financial institution to
21 receive payment;

22 (ii) explain the employee's options, including
23 direct deposit and a payroll card account;

24 (iii) include the date of the payday that the
25 employee will no longer have the option to receive
26 payment in lawful money or by check;

27 (iv) clearly state that, if the employee does not
28 designate a financial institution at least seven days
29 prior to the payday specified under subparagraph (iii),
30 the employer may make payment to the employee to a

1 payroll card account established at a financial
2 institution designated by the employer; and

3 (v) include any forms and instructions necessary for
4 the employee to designate the account in a financial
5 institution of the employee's choosing to receive
6 payment.

7 (c) Failure to designate financial institution.--If an
8 employee does not designate a financial institution at least
9 seven days prior to the payday specified under subsection (b) (2)
10 (iv), the employer may pay all wages, salaries or commissions
11 due to the employee to a payroll card account established at a
12 financial institution designated by the employer that complies
13 with the requirements of section 2.1 or temporarily by
14 negotiable check, in the discretion of the employer. Before
15 initially enrolling an employee in a payroll debit card account
16 in accordance with 12 CFR Pt. 1005 (relating to electronic fund
17 transfers (Regulation E)) and 83 Fed. Reg. 30, 6364 (February
18 13, 2018) (relating to rules concerning prepaid accounts under
19 the Electronic Fund Transfer Act (Regulation E)), the employer
20 shall offer the employee the opportunity to designate the
21 account in a financial institution to receive payment in
22 accordance with subsection (b).

23 Section 2. Consumer protections.

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

27 (1) the financial institution holding the account to
28 which transfers are made shall provide the employee or other
29 payee with the disclosures, notices of transfer, change in
30 term notices, access to account information and other

1 consumer protections to the extent required by 12 CFR [Part]
2 Pt. 1005 (relating to electronic fund transfers (Regulation
3 E)) and 83 Fed. Reg. 30, 6364 (February 13, 2018) (relating
4 to rules concerning prepaid accounts under the Electronic
5 Fund Transfer Act (Regulation E)); and

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

9 Section 2. Section 2.1(4) and (9) of the act are amended and
10 the section is amended by adding a paragraph to read:

11 Section 2.1. Payroll card accounts.

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

16 * * *

17 (4) Prior to [obtaining an employee's authorization,
18 the] enrolling an employee in a payroll account, the employer
19 shall provide the employee with clear and conspicuous notice
20 as required by 12 CFR Pt. 1005 (relating to electronic fund
21 transfers (Regulation E)) and 83 Fed. Reg. 30, 6364 (February
22 13, 2018) (relating to rules concerning prepaid accounts
23 under the Electronic Fund Transfer Act (Regulation E)), in
24 writing or electronically, of all of the following:

25 (i) All of the employee's wage payment options. The
26 disclosure under this subparagraph shall include a
27 statement substantially similar to any of the following:

28 (A) "You do not have to accept this payroll
29 card. Ask your employer about other ways to receive
30 your wages."

1 (B) "You have several options to receive your
2 wages: (list of options available to the employee,
3 including direct deposit into a checking account of
4 the employee's choosing) or this payroll card. Tell
5 your employer which option you choose."

6 (ii) The terms and conditions of the payroll card
7 account option, including the fees that may be deducted
8 from the employee's payroll card account by the card
9 issuer.

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

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

14 * * *

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

22 * * *

23 (11) In addition to the restrictions on payroll card
24 accounts specified under this section, if an employer removes
25 the option for an employee to receive payment by both lawful
26 money and check and makes payment to employees by a payroll
27 card account established at a financial institution
28 designated by the employer in accordance with section 1.1(b)
29 and (c), the following shall apply:

30 (i) The employer may not use a payroll card account

1 that charges fees for the overdraft of the payroll card
2 account.

3 (ii) In lieu of the limits on fees specified under
4 paragraph (5)(ii), the payroll card account shall provide
5 the employee with the ability, without charge by the card
6 issuer, to make two in-network ATM withdrawals each pay
7 period or one such withdrawal weekly if the employee is
8 paid more frequently than weekly.

9 Section 3. The addition of section 2.1(11) of the act shall
10 not apply to payroll card accounts provided to employees before
11 the effective date of this section.

12 Section 4. This act shall take effect in 60 days.