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# A BILL FOR AN ACT

RELATING TO PAYMENT OF WAGES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 388-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§388-2 Semimonthly payday[-]; method of payment of wages.**

4 (a) Every employer shall pay all wages due to the employer's  
5 employees at least twice during each calendar month, on regular  
6 paydays designated in advance by the employer, in lawful money  
7 of the United States [~~or~~], with checks convertible into cash on  
8 demand at full face value thereof[+], by direct deposit to the  
9 employee's account at a financial institution as provided in  
10 subsection (d), or by other means as provided in subsection (e);  
11 provided that when a majority of an employer's employees or a  
12 majority of the employees in a collective bargaining unit  
13 recognized by an employer or established by law elect, in a  
14 secret ballot election under procedures approved by the director  
15 of labor and industrial relations, to be paid once a month on a  
16 regularly scheduled basis, the employees shall be paid on such  
17 monthly basis. The elections shall not be held more frequently



1 than once in every two years and each election shall be valid  
2 for a period of two years.

3 (b) The earned wages of all employees shall be due and  
4 payable within seven days after the end of each pay period.

5 (c) The director may, upon application showing good and  
6 sufficient reasons, permit an employer to:

7 (1) Establish regular paydays less frequently than  
8 semimonthly; provided that the employee shall be paid  
9 in full at least once each calendar month on a  
10 regularly established schedule; or

11 (2) Pay earned wages within fifteen days after the end of  
12 each pay period.

13 (d) An employer may pay wages due to the employer's  
14 employees by electronic funds transfer or similar means of  
15 direct deposit to the employee's account at a financial  
16 institution; provided that:

17 (1) The employee has voluntarily authorized, in writing,  
18 the direct deposit to the account and financial  
19 institution of the employee's choice;

20 (2) The deposits and accounts of the financial institution  
21 selected are insured by the Federal Deposit Insurance



- 1           Corporation or any other comparable federal or state  
2           agency;
- 3           (3) The employee may cancel the direct deposit at any time  
4           with reasonable notice;
- 5           (4) The employer shall provide a pay statement as required  
6           under section 388-7(4);
- 7           (5) No employee shall be required to pay any costs or fees  
8           for the direct deposit; and
- 9           (6) No employee may be disciplined or otherwise penalized  
10           for authorizing or refusing to authorize direct  
11           deposit of wages.
- 12           (e) An employer shall not pay wages due to the employer's  
13 employees by use of a pay card, debit card, automated teller  
14 machine card, or similar means of an electronic payment card  
15 onto which an employer, or an entity on an employer's behalf,  
16 transfers or loads the employee's wages unless the following  
17 conditions are met:
- 18           (1) The employer shall not mandate an employee's use of a  
19           pay card, debit card, automated teller machine card,  
20           or similar means of electronic payment card;
- 21           (2) The employee shall not pay any of the costs or fees  
22           for the withdrawal of earned wages;



- 1        (3) The employer shall assume or otherwise absorb any fees  
2        or costs imposed by a financial institution for the  
3        employee's use of a pay card, debit card, automated  
4        teller machine card, or similar means of an electronic  
5        payment card;
- 6        (4) The employer shall comply with all applicable  
7        recordkeeping requirements under this chapter and of  
8        section 387-6;
- 9        (5) The employee may cancel the use of a pay card, debit  
10       card, automated teller machine card, or similar means  
11       of an electronic payment card with reasonable notice;
- 12       (6) The employer shall make available to the employee:
- 13       (A) The employee's balance by telephone;
- 14       (B) A readily accessible electronic history of the  
15       employee's account transactions covering at least  
16       sixty days preceding the date the employee  
17       electronically accesses the account; and
- 18       (C) Upon oral or written request by the employee, a  
19       promptly-provided written history of the account  
20       transactions covering at least sixty days prior  
21       to the employee's request; and



1        (7) The employer shall provide liability protections  
2                    against fraud and identity theft associated with the  
3                    use of an employer-issued pay card, debit card,  
4                    automated teller machine card, or similar means of an  
5                    electronic payment card."

6            SECTION 2. Section 388-5.5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8            "~~§~~388-5.5 **Payment of wages by check~~[-]~~ or direct**  
9 **deposit.** Whenever an employee receives the employee's wages  
10 from the employee's employer in the form of a check or by direct  
11 deposit for which insufficient amounts are available in the bank  
12 account of the employer, the employer shall be liable for any  
13 bank's special handling fee which the employee may incur by  
14 reason of negotiating the check~~[-]~~ or the electronic transfer."

15            SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17            SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Direct Deposit; Wages; Methods of Wage Payment

**Description:**

Clarifies that employers may pay wages by direct deposit under certain conditions. Allows employers to pay wages by pay cards, debit cards, automated teller machine cards, or similar means of electronic payment card under certain circumstances. Makes employers responsible for any fees incurred if an employer has insufficient funds for the direct deposit. (HB1814 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

