
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 388-1, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:

4 "Pay card" means a network branded prepaid card used by an
5 employee to access wages from a pay card account.

6 "Pay card account" means an account that is directly or
7 indirectly established through an employer and to which
8 transfers of the employee's wages, salary, or other compensation
9 are made."

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

12 **"§388-2 Semimonthly payday[-]; method of payment of wages.**

13 (a) Every employer shall pay all wages due to the employer's
14 employees at least twice during each calendar month, on regular
15 paydays designated in advance by the employer, in lawful money
16 of the United States [~~or~~], with checks convertible into cash on
17 demand at full face value thereof[+], by direct deposit to the
18 employee's account at a financial institution as provided in



1 subsection (d), or by other means as provided in subsection (e);
2 provided that when a majority of an employer's employees or a
3 majority of the employees in a collective bargaining unit
4 recognized by an employer or established by law elect, in a
5 secret ballot election under procedures approved by the director
6 of labor and industrial relations, to be paid once a month on a
7 regularly scheduled basis, the employees shall be paid on such
8 monthly basis. The elections shall not be held more frequently
9 than once in every two years and each election shall be valid
10 for a period of two years.

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

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

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

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

21 (d) An employer may pay wages due to the employer's
22 employees by electronic funds transfer or similar means of



1 direct deposit to the employee's account at a financial
2 institution; provided that:

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

6 (2) The deposits and accounts of the financial institution
7 selected are insured by the Federal Deposit Insurance
8 Corporation or any other comparable federal or state
9 agency;

10 (3) The employee may cancel the direct deposit at any time
11 with reasonable notice;

12 (4) The employer shall provide a pay statement as required
13 under section 388-7(4);

14 (5) No employee shall be required to pay any costs or fees
15 for the direct deposit of wages into the employee's
16 account; and

17 (6) No employee may be disciplined or otherwise penalized
18 for authorizing or refusing to authorize direct
19 deposit of wages.

20 (e) An employer may pay wages due to the employer's
21 employees by use of a pay card or similar means of an electronic
22 payment card onto which an employer, or an entity on an



1 employer's behalf, transfers or loads the employee's wages;
2 provided that:

3 (1) The employer shall not mandate an employee's use of a
4 pay card or similar means of electronic payment card;

5 (2) The employee has voluntarily authorized, in writing or
6 other verifiable form, the payment of wages using a
7 pay card or other similar means of electronic payment
8 card;

9 (3) The pay card issued to the employee shall be a network
10 branded pay card;

11 (4) The employee shall have the ability to withdraw the
12 employee's full net wages at least once per payroll
13 period without incurring any costs or fees;

14 (5) The employer shall assume or otherwise absorb any fees
15 or costs imposed by a financial institution for the
16 following services:

17 (A) The transfer or loading of the employee's net
18 wages into the account associated with the pay
19 card or similar means of electronic payment card;

20 (B) Activation of the pay card or similar means of
21 electronic payment card; and



- 1 (C) Distribution and delivery of the initial pay card
- 2 or similar means of electronic payment card;
- 3 (6) None of the employer's costs associated with the pay
- 4 card account may be passed on to its employees;
- 5 (7) The employer shall comply with all applicable
- 6 recordkeeping requirements under this chapter and of
- 7 section 387-6;
- 8 (8) The employee may cancel the use of a pay card or
- 9 similar means of an electronic payment card with
- 10 reasonable notice;
- 11 (9) The employer shall ensure that the following services
- 12 are 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 written history of the account transactions
- 20 covering at least sixty days prior to the
- 21 employee's request;



1 (10) The employer shall ensure that the employee is
2 provided liability protections against fraud
3 associated with the use of an employer-issued pay card
4 or similar means of an electronic payment card in
5 accordance with section 909 of the Electronic Fund
6 Transfer Act, 15 U.S.C. 1693g, and Regulation E, 12
7 C.F.R. §1005.6; and

8 (11) When offering an employee the option of receiving
9 wages using a pay card or similar means of an
10 electronic payment card, the employer shall provide
11 the employee with notice of the following items in
12 written or printable form:

13 (A) All of the employee's wage payment options;

14 (B) The terms and conditions relating to use of the
15 pay card or similar means of an electronic
16 payment card, including a list of fees that may
17 be assessed by the card issuer;

18 (C) The methods available to employees for accessing
19 wages from the pay card or similar means of an
20 electronic payment card without cost;

21 (D) The methods available to employees for checking
22 the balance in the pay card account without cost;



1 (E) A list of any fees assessed for use of the pay
2 card; and

3 (F) A statement as to whether third parties may
4 assess additional fees.

5 (f) As used in this section, "pay cards" shall not be
6 included in the definition of "money transmission" or licensing
7 requirements of chapter 489D; provided that the pay card does
8 not permit:

9 (1) Funds or value to be transmitted internationally;

10 (2) Transfers between or among users within the
11 arrangement; or

12 (3) Loading additional funds or the value of funds from
13 non-depository sources."

14 SECTION 3. Section 388-5.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~+~~**§388-5.5**~~+~~ **Payment of wages by check~~-~~ or direct**
17 deposit. Whenever an employee receives the employee's wages
18 from the employee's employer in the form of a check or by direct
19 deposit for which insufficient amounts are available in the bank
20 account of the employer, the employer shall be liable for any
21 bank's special handling fee which the employee may incur by
22 reason of negotiating the check~~-~~ or the electronic transfer."



1 SECTION 4. Section 489D-5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) This chapter shall not apply to:

- 4 (1) The United States or any department, agency, or
5 instrumentality thereof;
- 6 (2) The United States Postal Service;
- 7 (3) The State or any political subdivisions thereof; [~~and~~]
- 8 (4) The electronic transfer of government benefits for any
9 federal, state, or county governmental agency as
10 defined in Federal Reserve Board Regulation E, by a
11 contractor for, and on behalf of the United States or
12 any department, agency, or instrumentality thereof, or
13 any state or any political subdivisions thereof[~~;~~];
14 and

15 (5) The use of pay cards as a means of paying wages under
16 section 388-2; provided that the pay card does not
17 permit:

18 (A) Funds or value to be transmitted internationally;

19 (B) Transfers between or among users within the
20 arrangement; or

21 (C) Loading additional funds or the value of funds
22 from non-depository sources."



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2112.



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 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. Creates an exception to the State's Money Transmitters Act for use of pay cards that cannot be used internationally, be used for transfers from person to person, or be reloaded from a non-depository source. Effective July 1, 2112. (HB1814 HD2)

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