WEST VIRGINIA CODE: §21-5-3

§21-5-3. Payment of wages by employers other than railroads; assignments of wages.

(a) Every person, firm, or corporation doing business in this state, except railroad companies as provided in §21-5-1 *et seq*. of this code, shall settle with its employees at least twice every month in a manner of the person, firm, or corporation's choosing, as set forth in subsection (b) of this section, and with no more than 19 days between settlements, unless otherwise provided by special agreement, and pay them the wages due, less authorized deductions and authorized wage assignments, for their work or services.

(b) Payment required in subsection (a) of this section shall be made by the person, firm, or corporation in one of the following ways:

(1) In lawful money of the United States;

(2) By check or money order;

(3) By deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution: *Provided*, That an employer who compensates its employees using payroll cards shall provide full written disclosure of any applicable fees associated with the payroll card: *Provided, however*, That if an employer compensates its employees using payroll cards, the employer shall ensure that the employee has the ability to make at least one withdrawal or transfer from the payroll card per pay period without cost or fee to the employee for any amount contained on the card: *Provided further*, That if an employer compensates its employees using payroll cards, the employer shall ensure that the employee has the ability to make in-network withdrawals or transfers from the payroll card without cost or fee to the employee for any amount contained on the card.

(4) By any method of depositing immediately available funds in an employee's demand or time account in a bank, credit union, or savings and loan institution upon the employee's identification of his or her financial institution, the type of account, and the account number: *Provided*, That if an employee does not identify the information necessary to enable a deposit pursuant to this subdivision, the employer may pay the employee by payroll card pursuant to subdivision (3) of this subsection: *Provided, however*, That nothing herein contained shall be construed in a manner to require any person, firm, or corporation to pay employees by depositing funds in a financial institution.

(c) An employer who chooses to compensate its employees using payroll cards pursuant to the provisions of subsection (b)(3) of this section must also give employees the option of being paid by electronic transfer under the provisions of subsection (b)(4) of this section.

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(d) If, at any time of payment, any employee is absent from his or her regular place of labor and does not receive his or her wages through a duly authorized representative, he or she is entitled to payment at any time thereafter upon demand upon the proper paymaster at the place where his or her wages are usually paid and where the next pay is due.

(e) Nothing herein contained may affect the right of an employee to assign part of his or her claim against his or her employer except as in subsection (e) of this section.

(f) No assignment of or order for future wages may be valid for a period exceeding one year from the date of the assignment or order. An assignment or order shall be in writing and shall specify thereon the total amount due and collectible by virtue of the same and, unless otherwise provided for in subsection (g) of this section, three-fourths of the periodical earnings or wages of the assignor are all times exempt from such assignment or order and no assignment or order is valid which does not so state upon its face: *Provided*, That no such order or assignment is valid unless the written acceptance of the employer of the assignor to the making thereof is endorsed thereon: *Provided, however*, That nothing herein contained may be construed as affecting the right of a private employer and its employees to agree between themselves as to deductions to be made from the payroll of employees.

(g) If an employee of the state has been overpaid wages, including incremental salary increases pursuant to §5-5-2 of this code, an employee may voluntarily authorize a written assignment or order for future wages to the state to repay the overpayment in an amount not to exceed three-fourths of his or her periodical earnings or wages.

(h) Nothing in this chapter shall be construed to interfere with the right of an employee to join, become a member of, contribute to, donate to, or pay dues or fees to a union, labor organization, or club.

(i) For purposes of this article:

(1) “Payroll card” means a card, code, or combination thereof or other means of access to an employee’s payroll card account, by which the employee may initiate electronic fund transfers or use a payroll card to make purchases or payments.

(2) “Payroll card account” means an account in a federally insured depository institution that is directly or indirectly established through an employer and to which electronic fund transfers of the employee’s wages, salary, commissions, or other compensation are made on a recurring basis, whether the account is operated or managed by the employer, a third person payroll processor, a depository institution, or another person.

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