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**By: Senator Bromwell**

Introduced and read first time: January 30, 1997

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions - Automated Teller Machines - Fee Disclosures**

3 FOR the purpose of requiring the operator of an automated teller machine to disclose, at  
4 or before the time a transaction is initiated, certain fees to be charged by the  
5 operator; making the provisions of this Act severable; and generally relating to the  
6 disclosure of certain fees that will be charged by an operator for using an automated  
7 teller machine.

8 BY repealing and reenacting, with amendments,  
9 Article - Financial Institutions  
10 Section 1-207  
11 Annotated Code of Maryland  
12 (1992 Replacement Volume and 1996 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Financial Institutions**

16 1-207.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) "Access area" means any paved walkway or sidewalk which is  
19 within 50 feet of an automated teller machine.

20 (ii) "Access area" does not include any publicly maintained street or  
21 highway or any adjacent sidewalk.

22 (3) "Access device" has the meaning stated in Federal Reserve Board  
23 Regulation E, 12 C.F.R. Part 205.

24 (4) (i) "Automated teller machine" means any electronic information  
25 processing device located in this State which accepts or dispenses cash in connection with  
26 a credit, deposit, or convenience account.

27 (ii) "Automated teller machine" does not include devices used:

28 1. Solely to facilitate check guarantees or check authorizations;

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1                            2. In connection with the acceptance or dispensing of cash on a  
2 person-to-person basis, including by a store cashier; or

3                            3. For the payment of goods or services.

4                            (5) "Candlefoot power" means the light intensity of candles on a horizontal  
5 plane at 36 inches above ground level and 5 feet in front of the area to be measured.

6                            (6) "Control" of an access area or defined parking area means to have the  
7 present authority to determine how, when, and by whom such area is to be used,  
8 maintained, lighted, and landscaped.

9                            (7) "Customer" means an individual to whom an access device has been  
10 issued for personal, family, or household use.

11                           (8) (i) "Defined parking area" means that portion of a parking area open  
12 for customer parking which is:

13                                     1. Contiguous to an access area with respect to an automated  
14 teller machine;

15                                     2. Regularly, principally, and lawfully used for parking by users  
16 of the automated teller machine while conducting automated teller machine transactions  
17 during the hours of darkness; and

18                                     3. Owned or controlled by the operator of the automated teller  
19 machine or by the party leasing the automated teller machine site to the operator.

20                                     (ii) "Defined parking area" includes only the single parking level of a  
21 multiple level parking area deemed by the operator of the automated teller machine to be  
22 the most directly accessible to users of the automated teller machine if the parking area  
23 otherwise satisfies the conditions contained in item (i) of this paragraph.

24                                     (iii) "Defined parking area" does not include a parking area which:

25     1. Is not regularly used for parking by users of the automated  
26 teller machine who are conducting automated teller machine transactions during the  
27 hours of darkness; or

28     2. Is physically closed to access or is marked by conspicuous  
29 signs indicating that it is closed.

30                            (9) "Financial institution" has the meaning stated in § 1-101 of this title.

31                            (10) "Hours of darkness" means the period that begins 30 minutes after  
32 sunset and ends 30 minutes before sunrise.

33                            (11) "Operator" means a financial institution or other person that operates  
34 an automated teller machine.

35                            (b) (1) (i) This section does not apply to any person:

36     1. Whose primary function is to provide for the exchange,  
37 transfer, or dissemination of electronic fund transfer data; and

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1                                 2. That is not otherwise an operator or person who controls an  
2 access area or designated parking area.

3                                 (ii) A person described in item (i) of this paragraph shall have no  
4 liability to a customer or user of an automated teller machine for any claim relating to:

5   1. Any provision of SUBSECTION (C), (D), OR (E) OF this  
6 section; or

7   2. The use or attempted use of an automated teller machine.

8                                 (2) [This section does] SUBSECTION (C), (D), OR (E) OF THIS SECTION DO  
9 not apply to an automated teller machine which:

10   (i) Is located inside a building:

11   1. Unless the building is a freestanding installation which exists  
12 solely to provide an enclosure for the automated teller machine; or

13   2. Except to the extent that a transaction can be conducted  
14 from outside the building; or

15   (ii) Is located in any area, including any access area, building, enclosed  
16 space, or parking area, which is not controlled by the operator.

17                                 (c) (1) An operator of an automated teller machine shall adopt procedures for  
18 evaluating the safety of the location of the automated teller machine before it is installed.

19   (2) The procedures shall include a consideration of:

20   (i) The extent to which the lighting for the automated teller machine  
21 complies or will comply with the standards described in this section; and

22   (ii) The presence of landscaping, vegetation, or other obstructions in  
23 the area of the automated teller machine, the access area, and the defined parking area.

24   (3) (i) The operator of an automated teller machine installed prior to  
25 January 1, 1995 shall adopt procedures for evaluating the safety of the location of the  
26 existing automated teller machine.

27   (ii) The procedures adopted under subparagraph (i) of this paragraph  
28 shall include a consideration of the facts identified in paragraph (2) of this subsection to  
29 the extent appropriate to existing locations.

30   (iii) This subsection does not impose a duty to relocate an automated  
31 teller machine or modify the landscaping, vegetation, or other obstructions in the area of  
32 an automated teller machine, access area, or defined parking area for an automated teller  
33 machine installed prior to January 1, 1995.

34                                 (d) (1) An operator of an automated teller machine shall provide during the  
35 hours of darkness lighting of at least 10 candlefoot power at the face of the automated  
36 teller machine and extending in an unobstructed direction outward 5 feet.

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1 (2) An operator or, if different, the person who controls the access area or  
2 the defined parking area, shall provide during the hours of darkness lighting of:

3 (i) At least 2 candlefoot power within 50 feet from all unobstructed  
4 directions from the face of the automated teller machine;

5 (ii) At least 2 candlefoot power in that portion of the defined parking  
6 area within 60 feet of the automated teller machine; and

7 (iii) In the event the automated teller machine is located within 10 feet  
8 of a corner of the building and the automated teller machine is generally accessible from  
9 the adjacent side, at least 2 candlefoot power along the first 40 unobstructed feet of the  
10 adjacent side of the building.

11 (3) The requirements of this subsection apply only to automated teller  
12 machines that are open for use by customers during the hours of darkness.

13 (4) For automated teller machines installed before January 1, 1995,  
14 compliance with the provisions of this subsection shall be optional until July 1, 1995.

15 (e) (1) At or before the time a customer is furnished with an access device, the  
16 issuer of the access device shall furnish to the customer a notice concerning basic safety  
17 precautions that customers should employ while using an automated teller machine  
18 during hours of darkness.

19 (2) The notice shall be furnished:

20 (i) To each customer whose address for the account to which the  
21 access device relates is in this State; and

22 (ii) By personally delivering or mailing the notice to customers at their  
23 mailing addresses in this State.

24 (3) (i) Only one notice need be furnished for each mailing address; and

25 (ii) If access devices are furnished to more than one customer for a  
26 single account or set of accounts or on the basis of a single application or other request  
27 for access devices, only one notice need be furnished to satisfy this subsection's notice  
28 requirement as to those customers.

29 (4) The notice required by this subsection may be included with other  
30 disclosures related to the access device furnished to a customer, including any initial or  
31 periodic disclosure statement furnished under the Federal Electronic Fund Transfer Act.

32 (5) The issuer of an access device shall be deemed to be in compliance with  
33 the notice requirement of this subsection if the issuer advises the customer to:

34 (i) Be aware of the customer's surroundings when using an automated  
35 teller machine, particularly during the hours of darkness;

36 (ii) Be accompanied by another person when using an automated  
37 teller machine during the hours of darkness;

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1 (iii) Refrain from displaying cash, place cash in a pocket as soon as a  
2 transaction is completed, and count cash in the safety of a locked enclosure such as a car  
3 or home;

4 (iv) Use another automated teller machine or return at a later time if  
5 anything suspicious is noticed;

6 (v) Cancel a transaction, place the access device in a pocket, and leave  
7 if anything suspicious is noticed when using an automated teller machine; and

8 (vi) Immediately report all crimes to the operator of the automated  
9 teller machine and to local law enforcement officials.

10 (6) For an access device issued before January 1, 1995, compliance with the  
11 provisions of this subsection shall be optional unless:

12 (i) A customer requests in writing that the notice required by this  
13 subsection be provided; or

14 (ii) The access device is reissued, renewed, or replaced on or after  
15 January 1, 1995.

16 (F) (1) AT OR BEFORE THE TIME A TRANSACTION IS INITIATED, THE  
17 OPERATOR OF AN AUTOMATED TELLER MACHINE SHALL PROVIDE THE PERSON  
18 USING THE MACHINE WITH NOTICE OF THE FEE TO BE CHARGED BY THE OPERATOR  
19 FOR USE OF THE AUTOMATED TELLER MACHINE BY PERSONS USING ACCESS  
20 DEVICES NOT ISSUED BY THE OPERATOR.

21 (2) THE OPERATOR MAY GIVE THE NOTICE REQUIRED UNDER  
22 PARAGRAPH (1) OF THIS SUBSECTION BY EITHER:

23 (I) POSTING IN A CONSPICUOUS PLACE ON OR NEAR THE  
24 AUTOMATED TELLER MACHINE THE AMOUNT OF THE FEE; OR

25 (II) LISTING THE AMOUNT OF THE FEE ON THE SCREEN OF THE  
26 AUTOMATED TELLER MACHINE AT THE TIME THE TRANSACTION IS INITIATED.

27 (3) IF THE OPERATOR GIVES THE NOTICE IN THE MANNER PROVIDED  
28 BY PARAGRAPH (2)(II) OF THIS SUBSECTION, THE PERSON USING THE AUTOMATED  
29 TELLER MACHINE SHALL BE PROVIDED WITH THE OPPORTUNITY TO CANCEL THE  
30 TRANSACTION WITHOUT INCURRING ANY FEE.

31 [(f)] (G) (1) Only the State may enact a law regarding customer safety at  
32 automated teller machines.

33 (2) This section shall preempt any local law governing customer safety at  
34 automated teller machines.

35 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act  
36 or the application thereof to any person or circumstance is held invalid for any reason in  
37 a court of competent jurisdiction, the invalidity does not affect other provisions or any  
38 other application of this Act which can be given effect without the invalid provision or  
39 application, and for this purpose the provisions of this Act are declared severable.

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1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 1997.