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By: Senator Bromwell

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Assigned to: Finance

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CHAPTER ____

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.

2

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

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

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

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

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

10 3. For the payment of goods or services.

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

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

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

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

20 1. Contiguous to an access area with respect to an automated
21 teller machine;

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

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

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

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

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

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

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

3

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

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

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

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

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

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

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

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

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

17 (i) Is located inside a building:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) The notice shall be furnished:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (F) (1) AT OR BEFORE THE TIME A TRANSACTION IS INITIATED, THE
23 OPERATOR OF AN AUTOMATED TELLER MACHINE SHALL PROVIDE THE PERSON
24 USING THE MACHINE WITH NOTICE OF THE FEE TO BE CHARGED BY THE OPERATOR
25 FOR USE OF THE AUTOMATED TELLER MACHINE BY PERSONS USING ACCESS
26 DEVICES NOT ISSUED BY THE OPERATOR.

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

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

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

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

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

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

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

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