

HOUSE BILL 51

Unofficial Copy  
II

1999 Regular Session  
(9r0803)

**ENROLLED BILL**

-- Commerce and Government Matters/Finance --

Introduced by **Delegate Wood (Task Force to Study Bank Charter  
Modernization)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Financial Institutions - Clarification, Reorganization, and Consolidation of**  
3 **State Banking Laws**

4 FOR the purpose of clarifying, reorganizing, and consolidating certain laws relating  
5 to automated teller machines; *providing that certain provisions of this Act*  
6 *preempt any local law governing automated teller machines;* and generally  
7 relating to the clarification, reorganization, and consolidation of State banking  
8 laws relating to automated teller machines.

9 BY repealing  
10 Article - Financial Institutions  
11 Section 1-207 and 5-502  
12 Annotated Code of Maryland  
13 (1998 Replacement Volume and 1998 Supplement)

14 BY adding to

1 Article - Financial Institutions  
 2 Section 1-401 through ~~1-405~~ 1-406, inclusive, to be under the new subtitle  
 3 "Subtitle 4. Automated Teller Machines"  
 4 Annotated Code of Maryland  
 5 (1998 Replacement Volume and 1998 Supplement)

6 BY repealing and reenacting, with amendments,  
 7 Article - Financial Institutions  
 8 Section 12-201 and 12-207 through 12-209  
 9 Annotated Code of Maryland  
 10 (1998 Replacement Volume and 1998 Supplement)

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

13 **Article - Financial Institutions**

14 [1-207.

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

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

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

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

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

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

26 1. Solely to facilitate check guarantees or check  
 27 authorizations;

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

30 3. For the payment of goods or services.

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

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

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

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

8                                 1.     Contiguous to an access area with respect to an automated  
9 teller machine;

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

13                                3.     Owned or controlled by the operator of the automated  
14 teller machine or by the party leasing the automated teller machine site to the  
15 operator.

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

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

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

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

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

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

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

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

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

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

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

- 4 1. Any provision of subsection (c), (d), or (e) of this section; or
- 5 2. The use or attempted use of an automated teller machine.

6 (2) Subsections (c), (d), and (e) of this section do not apply to an  
7 automated teller machine which:

8 (i) Is located inside a building:

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

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

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

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

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

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

21 (ii) The presence of landscaping, vegetation, or other obstructions  
22 in the area of the automated teller machine, the access area, and the defined parking  
23 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  
28 paragraph shall include a consideration of the facts identified in paragraph (2) of this  
29 subsection to the extent appropriate to existing locations.

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

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  
6 parking area within 60 feet of the automated teller machine; and

7           (iii)   In the event the automated teller machine is located within 10  
8 feet of a corner of the building and the automated teller machine is generally  
9 accessible from the adjacent side, at least 2 candlefoot power along the first 40  
10 unobstructed feet of the 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,  
16 the issuer of the access device shall furnish to the customer a notice concerning basic  
17 safety precautions that customers should employ while using an automated teller  
18 machine 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  
23 their 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  
31 or periodic disclosure statement furnished under the Federal Electronic Fund  
32 Transfer Act.

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

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

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

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

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

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

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

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

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

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

18 (f) (1) At or before the time a transaction is initiated, the operator of an  
19 automated teller machine shall provide the person using the automated teller  
20 machine with notice of the fee to be charged by the operator for use of the automated  
21 teller machine by persons using access devices not issued by the operator.

22 (2) The operator may give the notice required under paragraph (1) of this  
23 subsection by either:

24 (i) Posting in a conspicuous place on or near the automated teller  
25 machine the amount of the fee; or

26 (ii) Listing the amount of the fee on the screen of the automated  
27 teller machine at the time the transaction is initiated.

28 (3) If the operator gives the notice in the manner provided by paragraph  
29 (2)(ii) of this subsection, the person using the automated teller machine shall be  
30 provided with the opportunity to cancel the transaction without incurring any fee.

31 (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.]

## SUBTITLE 4. AUTOMATED TELLER MACHINES.

2 1-401.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (B) (1) "ACCESS AREA" MEANS ANY PAVED WALKWAY OR SIDEWALK WHICH  
6 IS WITHIN 50 FEET OF AN AUTOMATED TELLER MACHINE.

7 (2) "ACCESS AREA" DOES NOT INCLUDE ANY PUBLICLY MAINTAINED  
8 STREET OR HIGHWAY OR ANY ADJACENT SIDEWALK.

9 (C) "ACCESS DEVICE" HAS THE MEANING STATED IN FEDERAL RESERVE  
10 BOARD REGULATION E, 12 C.F.R., PART 205.

11 (D) (1) "AUTOMATED TELLER MACHINE" MEANS ANY ELECTRONIC  
12 INFORMATION PROCESSING DEVICE LOCATED IN THIS STATE WHICH ACCEPTS OR  
13 DISPENSES CASH IN CONNECTION WITH A CREDIT, DEPOSIT, OR CONVENIENCE  
14 ACCOUNT.

15 (2) "AUTOMATED TELLER MACHINE" DOES NOT INCLUDE DEVICES  
16 USED:

17 (I) SOLELY TO FACILITATE CHECK GUARANTEES OR CHECK  
18 AUTHORIZATIONS;

19 (II) IN CONNECTION WITH THE ACCEPTANCE OR DISPENSING OF  
20 CASH ON A PERSON-TO-PERSON BASIS, INCLUDING BY A STORE CASHIER; OR

21 (III) FOR THE PAYMENT OF GOODS OR SERVICES.

22 (E) "CANDLEFOOT POWER" MEANS THE LIGHT INTENSITY OF CANDLES ON A  
23 HORIZONTAL PLANE AT 36 INCHES ABOVE GROUND LEVEL AND 5 FEET IN FRONT OF  
24 THE AREA TO BE MEASURED.

25 (F) "CONTROL" OF AN ACCESS AREA OR DEFINED PARKING AREA MEANS TO  
26 HAVE THE PRESENT AUTHORITY TO DETERMINE HOW, WHEN, AND BY WHOM SUCH  
27 AREA IS TO BE USED, MAINTAINED, LIGHTED, AND LANDSCAPED.

28 (G) "CUSTOMER" MEANS AN INDIVIDUAL TO WHOM AN ACCESS DEVICE HAS  
29 BEEN ISSUED FOR PERSONAL, FAMILY, OR HOUSEHOLD USE.

30 (H) (1) "DEFINED PARKING AREA" MEANS THAT PORTION OF A PARKING  
31 AREA OPEN FOR CUSTOMER PARKING WHICH IS:

32 (I) CONTIGUOUS TO AN ACCESS AREA WITH RESPECT TO AN  
33 AUTOMATED TELLER MACHINE;

34 (II) REGULARLY, PRINCIPALLY, AND LAWFULLY USED FOR  
35 PARKING BY USERS OF THE AUTOMATED TELLER MACHINE WHILE CONDUCTING

1 AUTOMATED TELLER MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS;  
2 AND

3 (III) OWNED OR CONTROLLED BY THE OPERATOR OF THE  
4 AUTOMATED TELLER MACHINE OR BY THE PARTY LEASING THE AUTOMATED  
5 TELLER MACHINE SITE TO THE OPERATOR.

6 (2) "DEFINED PARKING AREA" INCLUDES ONLY THE SINGLE PARKING  
7 LEVEL OF A MULTIPLE LEVEL PARKING AREA DEEMED BY THE OPERATOR OF THE  
8 AUTOMATED TELLER MACHINE TO BE THE MOST DIRECTLY ACCESSIBLE TO USERS  
9 OF THE AUTOMATED TELLER MACHINE IF THE PARKING AREA OTHERWISE  
10 SATISFIES THE CONDITIONS CONTAINED IN PARAGRAPH (1) OF THIS SUBSECTION.

11 (3) "DEFINED PARKING AREA" DOES NOT INCLUDE A PARKING AREA  
12 WHICH IS:

13 (I) NOT REGULARLY USED FOR PARKING BY USERS OF THE  
14 AUTOMATED TELLER MACHINE WHO ARE CONDUCTING AUTOMATED TELLER  
15 MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS; OR

16 (II) PHYSICALLY CLOSED TO ACCESS OR IS MARKED BY  
17 CONSPICUOUS SIGNS INDICATING THAT IT IS CLOSED.

18 (I) "HOURS OF DARKNESS" MEANS THE PERIOD THAT BEGINS 30 MINUTES  
19 AFTER SUNSET AND ENDS 30 MINUTES BEFORE SUNRISE.

20 (J) "OPERATOR" MEANS A FINANCIAL INSTITUTION OR OTHER PERSON THAT  
21 OPERATES AN AUTOMATED TELLER MACHINE.

22 1-402.

23 (A) (1) (I) THIS SECTION DOES NOT APPLY TO ANY PERSON:

24 1. WHOSE PRIMARY FUNCTION IS TO PROVIDE FOR THE  
25 EXCHANGE, TRANSFER, OR DISSEMINATION OF ELECTRONIC FUND TRANSFER DATA;  
26 AND

27 2. THAT IS NOT OTHERWISE AN OPERATOR OR PERSON WHO  
28 CONTROLS AN ACCESS AREA OR DESIGNATED PARKING AREA.

29 (II) A PERSON DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
30 PARAGRAPH IS NOT LIABLE TO A CUSTOMER OR USER OF AN AUTOMATED TELLER  
31 MACHINE FOR ANY CLAIM RELATING TO:

32 1. ANY PROVISION OF THIS SECTION; OR

33 2. THE USE OR ATTEMPTED USE OF AN AUTOMATED TELLER  
34 MACHINE.

35 (2) THIS SECTION DOES NOT APPLY TO AN AUTOMATED TELLER  
36 MACHINE WHICH IS LOCATED:



1 (I) INSIDE A BUILDING:

2 1. UNLESS THE BUILDING IS A FREESTANDING  
3 INSTALLATION WHICH EXISTS SOLELY TO PROVIDE AN ENCLOSURE FOR THE  
4 AUTOMATED TELLER MACHINE; OR

5 2. EXCEPT TO THE EXTENT THAT A TRANSACTION CAN BE  
6 CONDUCTED FROM OUTSIDE THE BUILDING; OR

7 (II) IN ANY AREA, INCLUDING ANY ACCESS AREA, BUILDING,  
8 ENCLOSED SPACE, OR PARKING AREA, WHICH IS NOT CONTROLLED BY THE  
9 OPERATOR.

10 (B) (1) AN OPERATOR OF AN AUTOMATED TELLER MACHINE SHALL ADOPT  
11 PROCEDURES FOR EVALUATING THE SAFETY OF THE LOCATION OF THE AUTOMATED  
12 TELLER MACHINE BEFORE IT IS INSTALLED.

13 (2) THE PROCEDURES SHALL INCLUDE A CONSIDERATION OF:

14 (I) THE EXTENT TO WHICH THE LIGHTING FOR THE AUTOMATED  
15 TELLER MACHINE COMPLIES OR WILL COMPLY WITH THE STANDARDS DESCRIBED IN  
16 THIS SECTION; AND

17 (II) THE PRESENCE OF LANDSCAPING, VEGETATION, OR OTHER  
18 OBSTRUCTIONS IN THE AREA OF THE AUTOMATED TELLER MACHINE, THE ACCESS  
19 AREA, AND THE DEFINED PARKING AREA.

20 (3) (I) THE OPERATOR OF AN AUTOMATED TELLER MACHINE  
21 INSTALLED PRIOR TO JANUARY 1, 1995 SHALL ADOPT PROCEDURES FOR EVALUATING  
22 THE SAFETY OF THE LOCATION OF THE EXISTING AUTOMATED TELLER MACHINE.

23 (II) THE PROCEDURES ADOPTED UNDER SUBPARAGRAPH (I) OF  
24 THIS PARAGRAPH SHALL INCLUDE A CONSIDERATION OF THE FACTS IDENTIFIED IN  
25 PARAGRAPH (2) OF THIS SUBSECTION TO THE EXTENT APPROPRIATE TO EXISTING  
26 LOCATIONS.

27 (III) THIS SUBSECTION DOES NOT IMPOSE A DUTY TO RELOCATE AN  
28 AUTOMATED TELLER MACHINE OR MODIFY THE LANDSCAPING, VEGETATION, OR  
29 OTHER OBSTRUCTIONS IN THE AREA OF AN AUTOMATED TELLER MACHINE, ACCESS  
30 AREA, OR DEFINED PARKING AREA FOR AN AUTOMATED TELLER MACHINE  
31 INSTALLED PRIOR TO JANUARY 1, 1995.

32 (C) (1) AN OPERATOR OF AN AUTOMATED TELLER MACHINE SHALL  
33 PROVIDE DURING THE HOURS OF DARKNESS LIGHTING OF AT LEAST 10 CANDLEFOOT  
34 POWER AT THE FACE OF THE AUTOMATED TELLER MACHINE AND EXTENDING IN AN  
35 UNOBSTRUCTED DIRECTION OUTWARD 5 FEET.

36 (2) AN OPERATOR OR, IF DIFFERENT, THE PERSON WHO CONTROLS THE  
37 ACCESS AREA OR THE DEFINED PARKING AREA SHALL PROVIDE DURING THE HOURS  
38 OF DARKNESS LIGHTING OF:

1 (I) AT LEAST 2 CANDLEFOOT POWER WITHIN 50 FEET FROM ALL  
2 UNOBSTRUCTED DIRECTIONS FROM THE FACE OF THE AUTOMATED TELLER  
3 MACHINE;

4 (II) AT LEAST 2 CANDLEFOOT POWER IN THAT PORTION OF THE  
5 DEFINED PARKING AREA WITHIN 60 FEET OF THE AUTOMATED TELLER MACHINE;  
6 AND

7 (III) IN THE EVENT THE AUTOMATED TELLER MACHINE IS LOCATED  
8 WITHIN 10 FEET OF A CORNER OF THE BUILDING AND THE AUTOMATED TELLER  
9 MACHINE IS GENERALLY ACCESSIBLE FROM THE ADJACENT SIDE, AT LEAST 2  
10 CANDLEFOOT POWER ALONG THE FIRST 40 UNOBSTRUCTED FEET OF THE ADJACENT  
11 SIDE OF THE BUILDING.

12 (3) THE REQUIREMENTS OF THIS SUBSECTION APPLY ONLY TO  
13 AUTOMATED TELLER MACHINES THAT ARE OPEN FOR USE BY CUSTOMERS DURING  
14 THE HOURS OF DARKNESS.

15 (D) (1) AT OR BEFORE THE TIME A CUSTOMER IS FURNISHED WITH AN  
16 ACCESS DEVICE, THE ISSUER OF THE ACCESS DEVICE SHALL FURNISH TO THE  
17 CUSTOMER A NOTICE CONCERNING BASIC SAFETY PRECAUTIONS THAT CUSTOMERS  
18 SHOULD EMPLOY WHILE USING AN AUTOMATED TELLER MACHINE DURING HOURS  
19 OF DARKNESS.

20 (2) THE NOTICE SHALL BE FURNISHED:

21 (I) TO EACH CUSTOMER WHOSE ADDRESS FOR THE ACCOUNT TO  
22 WHICH THE ACCESS DEVICE RELATES IS IN THIS STATE; AND

23 (II) BY PERSONALLY DELIVERING OR MAILING THE NOTICE TO  
24 CUSTOMERS AT THEIR MAILING ADDRESSES IN THIS STATE.

25 (3) (I) ONLY ONE NOTICE NEED BE FURNISHED FOR EACH MAILING  
26 ADDRESS.

27 (II) IF ACCESS DEVICES ARE FURNISHED TO MORE THAN ONE  
28 CUSTOMER FOR A SINGLE ACCOUNT OR SET OF ACCOUNTS OR ON THE BASIS OF A  
29 SINGLE APPLICATION OR OTHER REQUEST FOR ACCESS DEVICES, ONLY ONE NOTICE  
30 NEED BE FURNISHED TO SATISFY THIS SUBSECTION'S NOTICE REQUIREMENT AS TO  
31 THOSE CUSTOMERS.

32 (4) THE NOTICE REQUIRED BY THIS SUBSECTION MAY BE INCLUDED  
33 WITH OTHER DISCLOSURES RELATED TO THE ACCESS DEVICE FURNISHED TO A  
34 CUSTOMER, INCLUDING ANY INITIAL OR PERIODIC DISCLOSURE STATEMENT  
35 FURNISHED UNDER THE FEDERAL ELECTRONIC FUND TRANSFER ACT.

36 (5) THE ISSUER OF AN ACCESS DEVICE SHALL BE DEEMED TO BE IN  
37 COMPLIANCE WITH THE NOTICE REQUIREMENT OF THIS SUBSECTION IF THE ISSUER  
38 ADVISES THE CUSTOMER TO:

1 (I) BE AWARE OF THE CUSTOMER'S SURROUNDINGS WHEN USING  
2 AN AUTOMATED TELLER MACHINE, PARTICULARLY DURING THE HOURS OF  
3 DARKNESS;

4 (II) BE ACCOMPANIED BY ANOTHER PERSON WHEN USING AN  
5 AUTOMATED TELLER MACHINE DURING THE HOURS OF DARKNESS;

6 (III) REFRAIN FROM DISPLAYING CASH, PLACE CASH IN A POCKET  
7 AS SOON AS A TRANSACTION IS COMPLETED, AND COUNT CASH IN THE SAFETY OF A  
8 LOCKED ENCLOSURE SUCH AS A CAR OR HOME;

9 (IV) USE ANOTHER AUTOMATED TELLER MACHINE OR RETURN AT A  
10 LATER TIME IF ANYTHING SUSPICIOUS IS NOTICED;

11 (V) CANCEL A TRANSACTION, PLACE THE ACCESS DEVICE IN A  
12 POCKET, AND LEAVE IF ANYTHING SUSPICIOUS IS NOTICED WHEN USING AN  
13 AUTOMATED TELLER MACHINE; AND

14 (VI) IMMEDIATELY REPORT ALL CRIMES TO THE OPERATOR OF THE  
15 AUTOMATED TELLER MACHINE AND TO LOCAL LAW ENFORCEMENT OFFICIALS.

16 (6) FOR AN ACCESS DEVICE ISSUED BEFORE JANUARY 1, 1995,  
17 COMPLIANCE WITH THE PROVISIONS OF THIS SUBSECTION SHALL BE OPTIONAL  
18 UNLESS:

19 (I) A CUSTOMER REQUESTS IN WRITING THAT THE NOTICE  
20 REQUIRED BY THIS SUBSECTION BE PROVIDED; OR

21 (II) THE ACCESS DEVICE IS REISSUED, RENEWED, OR REPLACED  
22 ON OR AFTER JANUARY 1, 1995.

23 ~~(E) (1) ONLY THE STATE MAY ENACT A LAW REGARDING CUSTOMER SAFETY~~  
24 ~~AT AUTOMATED TELLER MACHINES.~~

25 ~~(2) THIS SECTION SHALL PREEMPT ANY LOCAL LAW GOVERNING~~  
26 ~~CUSTOMER SAFETY AT AUTOMATED TELLER MACHINES.~~

27 1-403.

28 (A) A BANKING INSTITUTION MAY HAVE AN AUTOMATED TELLER MACHINE IF  
29 THE COMMISSIONER APPROVES.

30 (B) (1) THE COMMISSIONER MAY APPROVE A PROPOSED AUTOMATED  
31 TELLER MACHINE ONLY IF:

32 (I) THE BANKING INSTITUTION FILES WITH THE COMMISSIONER  
33 AN APPLICATION IN THE FORM THAT THE COMMISSIONER REQUIRES; AND

34 (II) THE COMMISSIONER DETERMINES THAT IT WILL BE AN  
35 EFFECTIVE AND EFFICIENT SERVICE, CONSISTENT WITH SOUND BANKING  
36 PRACTICE, AND THE SECURITY OF THE TRANSACTIONS.

1 (2) (I) THE COMMISSIONER SHALL DETERMINE WHETHER TO  
2 APPROVE AN APPLICATION FOR AN AUTOMATED TELLER MACHINE WITHIN 30 DAYS  
3 AFTER THE RECEIPT OF A COMPLETED APPLICATION.

4 (II) AN APPLICATION FOR AN AUTOMATED TELLER MACHINE  
5 SHALL BE DEEMED APPROVED IF THE COMMISSIONER TAKES NO ACTION WITHIN  
6 THE 30-DAY PERIOD SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

7 (C) (1) AN AUTOMATED TELLER MACHINE MAY RECEIVE AND DISPENSE  
8 MONEY AS INSTRUCTED BY A CUSTOMER.

9 (2) A BANKING INSTITUTION MAY VERIFY BY DIRECT WIRE  
10 TRANSMISSION OR OTHERWISE ANY TRANSACTION THAT IS MADE BY MEANS OF AN  
11 AUTOMATED TELLER MACHINE.

12 (3) THE COMMISSIONER MAY ADOPT RULES AND REGULATIONS THAT  
13 ARE SUBSTANTIALLY SIMILAR TO THOSE RULES AND REGULATIONS OF THE  
14 COMPTROLLER OF THE CURRENCY FOR THE OPERATION AND SHARED USE OF  
15 AUTOMATED TELLER MACHINES BY NATIONAL BANKING ASSOCIATIONS.

16 (D) (1) IF, AFTER AN AUTOMATED TELLER MACHINE IS APPROVED, ANY  
17 REQUIREMENT OF THIS SECTION IS NOT BEING MET, THE COMMISSIONER SHALL  
18 GIVE THE BANKING INSTITUTION NOTICE OF THE DEFICIENCY.

19 (2) ON NOTICE OF DEFICIENCY, A BANKING INSTITUTION SHALL STOP  
20 USING THE ELECTRONIC TERMINAL.

21 (3) IF THE COMMISSIONER DETERMINES THAT THE DEFICIENCY HAS  
22 BEEN CORRECTED, THE BANKING INSTITUTION MAY RESUME USE OF THE  
23 AUTOMATED TELLER MACHINE.

24 (E) FOR PURPOSES OF THIS ARTICLE, AN AUTOMATED TELLER MACHINE IS  
25 NOT A BRANCH OF A BANKING INSTITUTION.

26 1-404.

27 (A) AT OR BEFORE THE TIME A TRANSACTION IS INITIATED, THE OPERATOR  
28 OF AN AUTOMATED TELLER MACHINE SHALL PROVIDE THE PERSON USING THE  
29 AUTOMATED TELLER MACHINE WITH NOTICE OF THE FEE TO BE CHARGED BY THE  
30 OPERATOR FOR USE OF THE AUTOMATED TELLER MACHINE BY PERSONS USING  
31 ACCESS DEVICES NOT ISSUED BY THE OPERATOR.

32 (B) (1) THE OPERATOR MAY GIVE THE NOTICE REQUIRED UNDER  
33 SUBSECTION (A) OF THIS SECTION BY EITHER:

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

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

1 (2) IF THE OPERATOR GIVES THE NOTICE IN THE MANNER PROVIDED BY  
2 PARAGRAPH (1)(II) OF THIS SUBSECTION, THE PERSON USING THE AUTOMATED  
3 TELLER MACHINE SHALL BE PROVIDED WITH THE OPPORTUNITY TO CANCEL THE  
4 TRANSACTION WITHOUT INCURRING ANY FEE.

5 1-405.

6 (A) "FOREIGN BANKING CORPORATION" HAS THE MEANING STATED IN §  
7 12-201(F) OF THIS ARTICLE.

8 (B) A FOREIGN BANKING CORPORATION MAY NOT HAVE AN AUTOMATED  
9 TELLER MACHINE IN THIS STATE FOR ANY PURPOSE UNLESS:

10 (1) THE FOREIGN BANKING CORPORATION OBTAINS FROM THE  
11 COMMISSIONER A PERMIT FOR THE AUTOMATED TELLER MACHINE; OR

12 (2) THE AUTOMATED TELLER MACHINE IS AUTHORIZED UNDER:

13 (I) THE RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING  
14 EFFICIENCY ACT OF 1994 OR OTHER FEDERAL LAW; OR

15 (II) TITLE 5, SUBTITLE 9 OR SUBTITLE 10 OF THIS ARTICLE.

16 (C) THE PROCESS FOR OBTAINING A PERMIT FOR THE AUTOMATED TELLER  
17 MACHINE IS AS STATED IN §§ 12-208 AND 12-209 OF THIS ARTICLE.

18 1-406.

19 (A) ONLY THE STATE MAY ENACT A LAW REGARDING AUTOMATED TELLER  
20 MACHINES.

21 (B) THIS SUBTITLE SHALL PREEMPT ANY LOCAL LAW GOVERNING  
22 AUTOMATED TELLER MACHINES.

23 [5-502.

24 (a) In this section:

25 (1) "Electronic terminal" means any manned or unmanned electronic  
26 machine that:

27 (i) Enables a customer of a banking institution to:

28 1. Withdraw money from an account or under an authorized  
29 line of credit of the customer with the banking institution;

30 2. Transfer money from any account of the customer with the  
31 banking institution to any other account with the banking institution; or

32 3. Deposit money into an account of the customer with the  
33 banking institution;

1 (ii) Is not located at the principal banking office or any branch of  
2 the banking institution; and

3 (iii) If manned, is manned by a person who is under contract with  
4 but is not an employee or officer of the banking institution; and

5 (2) "Electronic terminal" does not include a telephone that the customer  
6 operates.

7 (b) A banking institution may have an electronic terminal, if the  
8 Commissioner approves.

9 (c) (1) The Commissioner may approve a proposed electronic terminal only  
10 if:

11 (i) The banking institution files with the Commissioner an  
12 application in the form that the Commissioner requires; and

13 (ii) The Commissioner determines that it will be an effective and  
14 efficient service, consistent with sound banking practice, and the security of the  
15 transactions.

16 (2) (i) The Commissioner shall determine whether to approve an  
17 application for an electronic terminal within 30 days after the receipt of a completed  
18 application.

19 (ii) An application for an electronic terminal shall be deemed  
20 approved if the Commissioner takes no action within the 30-day period specified in  
21 subparagraph (i) of this paragraph.

22 (d) (1) An electronic terminal may receive and dispense money as instructed  
23 by a customer.

24 (2) A banking institution may verify by direct wire transmission or  
25 otherwise any transaction that is made by means of an electronic terminal.

26 (3) The Commissioner may adopt rules and regulations that are  
27 substantially similar to those rules and regulations of the Comptroller of the  
28 Currency for the operation and shared use of electronic terminals by national banking  
29 associations.

30 (e) (1) If, after an electronic terminal is approved, any requirement of the  
31 section is not being met, the Commissioner shall give the banking institution notice of  
32 the deficiency.

33 (2) On notice of deficiency, a banking institution shall stop using the  
34 electronic terminal.

35 (3) If the Commissioner determines that the deficiency has been  
36 corrected, the banking institution may resume use of the electronic terminal.

1 (f) For purposes of this article, an electronic terminal is not a branch of a  
2 banking institution.]

3 12-201.

4 (a) In this subtitle the following words have the meanings indicated.

5 (b) "Affiliated corporation" means any corporation, whether incorporated  
6 under the laws of this State or of any other jurisdiction, of which 25 percent or more  
7 of the outstanding voting shares are owned of record or beneficially by:

8 (1) A foreign bank; or

9 (2) Persons who own of record or beneficially 25 percent or more of the  
10 outstanding voting shares of a foreign bank.

11 (c) "Bank holding company" means a corporation that owns of record or  
12 beneficially 25 percent or more of the outstanding voting shares of:

13 (1) A State banking institution that has its principal banking office in  
14 this State; or

15 (2) A national banking association that has its principal banking office in  
16 this State.

17 (d) [(1) "Electronic terminal" means an electronic device through which a  
18 consumer may begin a fund transfer or credit transaction.

19 (2) "Electronic terminal" includes:

20 (i) A point-of-sale terminal;

21 (ii) An automated teller machine; and

22 (iii) A cash dispensing machine.

23 (3) "Electronic terminal" does not include a telephone that the consumer  
24 operates.

25 (e)] "Foreign bank" means any bank or trust company other than:

26 (1) A State banking institution that has its principal banking office in  
27 this State; and

28 (2) A national banking association that has its principal banking office in  
29 this State.

30 [(f)] (E) "Foreign banking corporation" means:

31 (1) A foreign bank; or

- 1 (2) Any corporation that:
- 2 (i) Is controlled by a foreign bank;
- 3 (ii) Controls a foreign bank; or
- 4 (iii) Is controlled by persons who control a foreign bank or foreign  
5 bank holding company.

6 12-207.

7 A foreign banking corporation may not have an office [or an electronic terminal]  
8 in this State for any purpose unless:

- 9 (1) The foreign banking corporation obtains from the Commissioner a  
10 permit for the office [or terminal]; or
- 11 (2) The office [or electronic terminal] is authorized under:
- 12 (i) The Riegle-Neal Interstate Banking and Branching Efficiency  
13 Act of 1994 or other federal law; or
- 14 (ii) Title 5, Subtitle 9 or Subtitle 10 of this article.

15 12-208.

16 (a) To apply for a permit for an office [or electronic terminal], a foreign  
17 banking corporation shall:

- 18 (1) Submit to the Commissioner an application on the form that the  
19 Commissioner requires; and
- 20 (2) Pay to the Commissioner the application fee set by the Commissioner.
- 21 (b) The application shall state:
- 22 (1) The location of each proposed office [and electronic terminal];
- 23 (2) A specific description of the proposed operations; and
- 24 (3) The services to be performed for the public.

25 12-209.

26 On application for a permit, the Commissioner, after receiving the advice of the  
27 Banking Board, shall issue the permit, if the Commissioner determines that the  
28 establishment and operations of the proposed office [or electronic terminal] will not  
29 violate any law of this State that applies to banks and banking.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 1999.



