

HOUSE BILL 51

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II

1999 Regular Session
9lr0803
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By: **Delegate Wood (Task Force to Study Bank Charter Modernization)**

Introduced and read first time: January 18, 1999

Assigned to: Commerce and Government Matters

A BILL ENTITLED

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; and generally relating to the clarification,
6 reorganization, and consolidation of State banking laws relating to automated
7 teller machines.

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

13 BY adding to
14 Article - Financial Institutions
15 Section 1-401 through 1-405, inclusive, to be under the new subtitle "Subtitle 4.
16 Automated Teller Machines"
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1998 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Financial Institutions
21 Section 12-201 and 12-207 through 12-209
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1998 Supplement)

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

1 **Article - Financial Institutions**

2 [1-207.

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

4 (2) (i) "Access area" means any paved walkway or sidewalk which is
5 within 50 feet of an automated teller machine.6 (ii) "Access area" does not include any publicly maintained street or
7 highway or any adjacent sidewalk.8 (3) "Access device" has the meaning stated in Federal Reserve Board
9 Regulation E, 12 C.F.R. Part 205.10 (4) (i) "Automated teller machine" means any electronic information
11 processing device located in this State which accepts or dispenses cash in connection
12 with a credit, deposit, or convenience account.

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

14 1. Solely to facilitate check guarantees or check
15 authorizations;16 2. In connection with the acceptance or dispensing of cash on
17 a person-to-person basis, including by a store cashier; or

18 3. For the payment of goods or services.

19 (5) "Candlefoot power" means the light intensity of candles on a
20 horizontal plane at 36 inches above ground level and 5 feet in front of the area to be
21 measured.22 (6) "Control" of an access area or defined parking area means to have the
23 present authority to determine how, when, and by whom such area is to be used,
24 maintained, lighted, and landscaped.25 (7) "Customer" means an individual to whom an access device has been
26 issued for personal, family, or household use.27 (8) (i) "Defined parking area" means that portion of a parking area
28 open for customer parking which is:29 1. Contiguous to an access area with respect to an automated
30 teller machine;31 2. Regularly, principally, and lawfully used for parking by
32 users of the automated teller machine while conducting automated teller machine
33 transactions during the hours of darkness; and

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

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

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

9 (2) The notice shall be furnished:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (g) (1) Only the State may enact a law regarding customer safety at
23 automated teller machines.

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

26 SUBTITLE 4. AUTOMATED TELLER MACHINES.

27 1-401.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

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

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

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

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

7 (2) "AUTOMATED TELLER MACHINE" DOES NOT INCLUDE DEVICES
8 USED:

9 (I) SOLELY TO FACILITATE CHECK GUARANTEES OR CHECK
10 AUTHORIZATIONS;

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

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

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

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

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

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

24 (I) CONTIGUOUS TO AN ACCESS AREA WITH RESPECT TO AN
25 AUTOMATED TELLER MACHINE;

26 (II) REGULARLY, PRINCIPALLY, AND LAWFULLY USED FOR
27 PARKING BY USERS OF THE AUTOMATED TELLER MACHINE WHILE CONDUCTING
28 AUTOMATED TELLER MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS;
29 AND

30 (III) OWNED OR CONTROLLED BY THE OPERATOR OF THE
31 AUTOMATED TELLER MACHINE OR BY THE PARTY LEASING THE AUTOMATED
32 TELLER MACHINE SITE TO THE OPERATOR.

33 (2) "DEFINED PARKING AREA" INCLUDES ONLY THE SINGLE PARKING
34 LEVEL OF A MULTIPLE LEVEL PARKING AREA DEEMED BY THE OPERATOR OF THE
35 AUTOMATED TELLER MACHINE TO BE THE MOST DIRECTLY ACCESSIBLE TO USERS
36 OF THE AUTOMATED TELLER MACHINE IF THE PARKING AREA OTHERWISE
37 SATISFIES THE CONDITIONS CONTAINED IN PARAGRAPH (1) OF THIS SUBSECTION.

1 (3) "DEFINED PARKING AREA" DOES NOT INCLUDE A PARKING AREA
2 WHICH IS:

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

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

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

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

12 1-402.

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

14 1. WHOSE PRIMARY FUNCTION IS TO PROVIDE FOR THE
15 EXCHANGE, TRANSFER, OR DISSEMINATION OF ELECTRONIC FUND TRANSFER DATA;
16 AND

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

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

22 1. ANY PROVISION OF THIS SECTION; OR

23 2. THE USE OR ATTEMPTED USE OF AN AUTOMATED TELLER
24 MACHINE.

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

27 (I) INSIDE A BUILDING:

28 1. UNLESS THE BUILDING IS A FREESTANDING
29 INSTALLATION WHICH EXISTS SOLELY TO PROVIDE AN ENCLOSURE FOR THE
30 AUTOMATED TELLER MACHINE; OR

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

33 (II) IN ANY AREA, INCLUDING ANY ACCESS AREA, BUILDING,
34 ENCLOSED SPACE, OR PARKING AREA, WHICH IS NOT CONTROLLED BY THE
35 OPERATOR.

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

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

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

8 (II) THE PRESENCE OF LANDSCAPING, VEGETATION, OR OTHER
9 OBSTRUCTIONS IN THE AREA OF THE AUTOMATED TELLER MACHINE, THE ACCESS
10 AREA, AND THE DEFINED PARKING AREA.

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

14 (II) THE PROCEDURES ADOPTED UNDER SUBPARAGRAPH (I) OF
15 THIS PARAGRAPH SHALL INCLUDE A CONSIDERATION OF THE FACTS IDENTIFIED IN
16 PARAGRAPH (2) OF THIS SUBSECTION TO THE EXTENT APPROPRIATE TO EXISTING
17 LOCATIONS.

18 (III) THIS SUBSECTION DOES NOT IMPOSE A DUTY TO RELOCATE AN
19 AUTOMATED TELLER MACHINE OR MODIFY THE LANDSCAPING, VEGETATION, OR
20 OTHER OBSTRUCTIONS IN THE AREA OF AN AUTOMATED TELLER MACHINE, ACCESS
21 AREA, OR DEFINED PARKING AREA FOR AN AUTOMATED TELLER MACHINE
22 INSTALLED PRIOR TO JANUARY 1, 1995.

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

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

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

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

36 (III) IN THE EVENT THE AUTOMATED TELLER MACHINE IS LOCATED
37 WITHIN 10 FEET OF A CORNER OF THE BUILDING AND THE AUTOMATED TELLER
38 MACHINE IS GENERALLY ACCESSIBLE FROM THE ADJACENT SIDE, AT LEAST 2

1 CANDLEFOOT POWER ALONG THE FIRST 40 UNOBSTRUCTED FEET OF THE ADJACENT
2 SIDE OF THE BUILDING.

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

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

11 (2) THE NOTICE SHALL BE FURNISHED:

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

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

16 (3) (I) ONLY ONE NOTICE NEED BE FURNISHED FOR EACH MAILING
17 ADDRESS.

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

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

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

30 (I) BE AWARE OF THE CUSTOMER'S SURROUNDINGS WHEN USING
31 AN AUTOMATED TELLER MACHINE, PARTICULARLY DURING THE HOURS OF
32 DARKNESS;

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

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

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

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

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

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

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

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

15 (E) (1) ONLY THE STATE MAY ENACT A LAW REGARDING CUSTOMER SAFETY
16 AT AUTOMATED TELLER MACHINES.

17 (2) THIS SECTION SHALL PREEMPT ANY LOCAL LAW GOVERNING
18 CUSTOMER SAFETY AT AUTOMATED TELLER MACHINES.

19 1-403.

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

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

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

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

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

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

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

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

4 (3) THE COMMISSIONER MAY ADOPT RULES AND REGULATIONS THAT
5 ARE SUBSTANTIALLY SIMILAR TO THOSE RULES AND REGULATIONS OF THE
6 COMPTROLLER OF THE CURRENCY FOR THE OPERATION AND SHARED USE OF
7 AUTOMATED TELLER MACHINES BY NATIONAL BANKING ASSOCIATIONS.

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

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

13 (3) IF THE COMMISSIONER DETERMINES THAT THE DEFICIENCY HAS
14 BEEN CORRECTED, THE BANKING INSTITUTION MAY RESUME USE OF THE
15 AUTOMATED TELLER MACHINE.

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

18 1-404.

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

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

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

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

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

34 1-405.

35 (A) "FOREIGN BANKING CORPORATION" HAS THE MEANING STATED IN §
36 12-201(F) OF THIS ARTICLE.

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

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

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

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

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

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

11 [5-502.

12 (a) In this section:

13 (1) "Electronic terminal" means any manned or unmanned electronic
14 machine that:

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

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

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

20 3. Deposit money into an account of the customer with the
21 banking institution;

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

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

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

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

30 (c) (1) The Commissioner may approve a proposed electronic terminal only
31 if:

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

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

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

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

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

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

14 (3) The Commissioner may adopt rules and regulations that are
15 substantially similar to those rules and regulations of the Comptroller of the
16 Currency for the operation and shared use of electronic terminals by national banking
17 associations.

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

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

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

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

27 12-201.

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

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

32 (1) A foreign bank; or

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

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

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

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

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

7 (2) "Electronic terminal" includes:

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

9 (ii) An automated teller machine; and

10 (iii) A cash dispensing machine.

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

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

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

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

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

19 (1) A foreign bank; or

20 (2) Any corporation that:

21 (i) Is controlled by a foreign bank;

22 (ii) Controls a foreign bank; or

23 (iii) Is controlled by persons who control a foreign bank or foreign
24 bank holding company.

25 12-207.

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

28 (1) The foreign banking corporation obtains from the Commissioner a
29 permit for the office [or terminal]; or

30 (2) The office [or electronic terminal] is authorized under:

1 (i) The Riegle-Neal Interstate Banking and Branching Efficiency
2 Act of 1994 or other federal law; or

3 (ii) Title 5, Subtitle 9 or Subtitle 10 of this article.

4 12-208.

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

7 (1) Submit to the Commissioner an application on the form that the
8 Commissioner requires; and

9 (2) Pay to the Commissioner the application fee set by the Commissioner.

10 (b) The application shall state:

11 (1) The location of each proposed office [and electronic terminal];

12 (2) A specific description of the proposed operations; and

13 (3) The services to be performed for the public.

14 12-209.

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

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