

HOUSE BILL 51

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1999 Regular Session
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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

Committee Report: Favorable

House action: Adopted

Read second time: March 22, 1999

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; 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)

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

3 **Article - Financial Institutions**

4 [1-207.

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

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

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

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

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

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

16 1. Solely to facilitate check guarantees or check
17 authorizations;

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

20 3. For the payment of goods or services.

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

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

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

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

31 1. Contiguous to an access area with respect to an automated
32 teller machine;

- 1 1. Unless the building is a freestanding installation which
2 exists solely to provide an enclosure for the automated teller machine; or
- 3 2. Except to the extent that a transaction can be conducted
4 from outside the building; or
- 5 (ii) Is located in any area, including any access area, building,
6 enclosed space, or parking area, which is not controlled by the operator.
- 7 (c) (1) An operator of an automated teller machine shall adopt procedures
8 for evaluating the safety of the location of the automated teller machine before it is
9 installed.
- 10 (2) The procedures shall include a consideration of:
- 11 (i) The extent to which the lighting for the automated teller
12 machine complies or will comply with the standards described in this section; and
- 13 (ii) The presence of landscaping, vegetation, or other obstructions
14 in the area of the automated teller machine, the access area, and the defined parking
15 area.
- 16 (3) (i) The operator of an automated teller machine installed prior to
17 January 1, 1995 shall adopt procedures for evaluating the safety of the location of the
18 existing automated teller machine.
- 19 (ii) The procedures adopted under subparagraph (i) of this
20 paragraph shall include a consideration of the facts identified in paragraph (2) of this
21 subsection to the extent appropriate to existing locations.
- 22 (iii) This subsection does not impose a duty to relocate an
23 automated teller machine or modify the landscaping, vegetation, or other obstructions
24 in the area of an automated teller machine, access area, or defined parking area for
25 an automated teller machine installed prior to January 1, 1995.
- 26 (d) (1) An operator of an automated teller machine shall provide during the
27 hours of darkness lighting of at least 10 candlefoot power at the face of the automated
28 teller machine and extending in an unobstructed direction outward 5 feet.
- 29 (2) An operator or, if different, the person who controls the access area or
30 the defined parking area, shall provide during the hours of darkness lighting of:
- 31 (i) At least 2 candlefoot power within 50 feet from all unobstructed
32 directions from the face of the automated teller machine;
- 33 (ii) At least 2 candlefoot power in that portion of the defined
34 parking area within 60 feet of the automated teller machine; and
- 35 (iii) In the event the automated teller machine is located within 10
36 feet of a corner of the building and the automated teller machine is generally

1 accessible from the adjacent side, at least 2 candlefoot power along the first 40
2 unobstructed feet of the adjacent side of the building.

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

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

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

11 (2) The notice shall be furnished:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 SUBTITLE 4. AUTOMATED TELLER MACHINES.

29 1-401.

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

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

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

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

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

9 (2) "AUTOMATED TELLER MACHINE" DOES NOT INCLUDE DEVICES
10 USED:

11 (I) SOLELY TO FACILITATE CHECK GUARANTEES OR CHECK
12 AUTHORIZATIONS;

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

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

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

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

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

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

26 (I) CONTIGUOUS TO AN ACCESS AREA WITH RESPECT TO AN
27 AUTOMATED TELLER MACHINE;

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

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

35 (2) "DEFINED PARKING AREA" INCLUDES ONLY THE SINGLE PARKING
36 LEVEL OF A MULTIPLE LEVEL PARKING AREA DEEMED BY THE OPERATOR OF THE

1 AUTOMATED TELLER MACHINE TO BE THE MOST DIRECTLY ACCESSIBLE TO USERS
2 OF THE AUTOMATED TELLER MACHINE IF THE PARKING AREA OTHERWISE
3 SATISFIES THE CONDITIONS CONTAINED IN PARAGRAPH (1) OF THIS SUBSECTION.

4 (3) "DEFINED PARKING AREA" DOES NOT INCLUDE A PARKING AREA
5 WHICH IS:

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

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

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

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

15 1-402.

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

17 1. WHOSE PRIMARY FUNCTION IS TO PROVIDE FOR THE
18 EXCHANGE, TRANSFER, OR DISSEMINATION OF ELECTRONIC FUND TRANSFER DATA;
19 AND

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

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

25 1. ANY PROVISION OF THIS SECTION; OR

26 2. THE USE OR ATTEMPTED USE OF AN AUTOMATED TELLER
27 MACHINE.

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

30 (I) INSIDE A BUILDING:

31 1. UNLESS THE BUILDING IS A FREESTANDING
32 INSTALLATION WHICH EXISTS SOLELY TO PROVIDE AN ENCLOSURE FOR THE
33 AUTOMATED TELLER MACHINE; OR

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

1 (II) IN ANY AREA, INCLUDING ANY ACCESS AREA, BUILDING,
2 ENCLOSED SPACE, OR PARKING AREA, WHICH IS NOT CONTROLLED BY THE
3 OPERATOR.

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

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

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

11 (II) THE PRESENCE OF LANDSCAPING, VEGETATION, OR OTHER
12 OBSTRUCTIONS IN THE AREA OF THE AUTOMATED TELLER MACHINE, THE ACCESS
13 AREA, AND THE DEFINED PARKING AREA.

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

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

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

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

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

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

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

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

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

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

14 (2) THE NOTICE SHALL BE FURNISHED:

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

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

19 (3) (I) ONLY ONE NOTICE NEED BE FURNISHED FOR EACH MAILING
20 ADDRESS.

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

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

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

33 (I) BE AWARE OF THE CUSTOMER'S SURROUNDINGS WHEN USING
34 AN AUTOMATED TELLER MACHINE, PARTICULARLY DURING THE HOURS OF
35 DARKNESS;

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

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

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

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

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

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

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

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

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

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

22 1-403.

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

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

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

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

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

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

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

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

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

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

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

18 (3) IF THE COMMISSIONER DETERMINES THAT THE DEFICIENCY HAS
19 BEEN CORRECTED, THE BANKING INSTITUTION MAY RESUME USE OF THE
20 AUTOMATED TELLER MACHINE.

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

23 1-404.

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

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

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

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

35 (2) IF THE OPERATOR GIVES THE NOTICE IN THE MANNER PROVIDED BY
36 PARAGRAPH (1)(II) OF THIS SUBSECTION, THE PERSON USING THE AUTOMATED

1 TELLER MACHINE SHALL BE PROVIDED WITH THE OPPORTUNITY TO CANCEL THE
2 TRANSACTION WITHOUT INCURRING ANY FEE.

3 1-405.

4 (A) "FOREIGN BANKING CORPORATION" HAS THE MEANING STATED IN §
5 12-201(F) OF THIS ARTICLE.

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

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

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

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

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

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

16 [5-502.

17 (a) In this section:

18 (1) "Electronic terminal" means any manned or unmanned electronic
19 machine that:

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

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

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

25 3. Deposit money into an account of the customer with the
26 banking institution;

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

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

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

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

3 (c) (1) The Commissioner may approve a proposed electronic terminal only
4 if:

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

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

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

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

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

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

20 (3) The Commissioner may adopt rules and regulations that are
21 substantially similar to those rules and regulations of the Comptroller of the
22 Currency for the operation and shared use of electronic terminals by national banking
23 associations.

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

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

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

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

33 12-201.

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

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

4 (1) A foreign bank; or

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

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

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

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

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

15 (2) "Electronic terminal" includes:

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

17 (ii) An automated teller machine; and

18 (iii) A cash dispensing machine.

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

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

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

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

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

27 (1) A foreign bank; or

28 (2) Any corporation that:

29 (i) Is controlled by a foreign bank;

30 (ii) Controls a foreign bank; or

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

3 12-207.

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

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

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

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

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

12 12-208.

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

15 (1) Submit to the Commissioner an application on the form that the
16 Commissioner requires; and

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

18 (b) The application shall state:

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

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

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

22 12-209.

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

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

