

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 180

(Delegate Hixson, *et al.*)

Economic Matters

Finance

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**Financial Institutions - Automated Teller Machines - Video Cameras**

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This bill requires an operator of an automated teller machine (ATM) to (1) install and maintain a video camera in each ATM that views and records all user transactional activity occurring at the ATM; and (2) preserve the recordings for at least 45 days. The video camera is not required to record ATM banking transactions.

The bill applies prospectively to an ATM first installed on or after October 1, 2010.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State finances or operations.

**Local Effect:** The bill does not directly affect local finances or operations.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Bill Summary:** The bill does not apply to any ATM located inside a building. However, two exceptions exist. First, a newly installed ATM inside a freestanding installation that exists solely to provide an enclosure for the ATM must contain a video camera. In addition, an ATM located inside a building that enables a customer to conduct a transaction from outside the building must also have a video camera.

The bill does not apply to an ATM operated by a financial institution, unless the ATM is located at, within, or attached to the premises owned or under the control of the financial institution. An operator of an ATM with a video camera subject to the bill's provisions is

not liable for a video camera malfunction that occurs due to a reason beyond the operator's control.

**Current Law:** Statutory provisions currently require ATM operators to notify customers of safety precautions and regulate minimum outdoor lighting levels. Prior to the installation of an ATM, an operator must consider a variety of factors, including lighting, potential obstructions such as vegetation, the access area, and the availability of parking.

An ATM operator installing a machine that is accessible after dark must provide lighting of at least 10 candlefoot power at the face of the ATM that extends in an unobstructed direction outward five feet. The person controlling the access area or the parking area surrounding the ATM must provide (1) lighting after dark of at least two candlefoot power within 50 feet from all unobstructed directions from the face of the ATM; and (2) at least two candlefoot power in the defined parking area within 60 feet of the ATM. When a customer is provided with an ATM card, the card issuer must inform the customer of basic safety precautions that should be employed while using an ATM after dark. This notice may be included with other disclosures, including any initial or periodic disclosure statement required by the Federal Electronic Fund Transfer Act.

**Background:** The bill, as originally introduced, is similar to the State of New York's ATM Safety Act (Act) that establishes minimum security requirements for all ATM facilities in the state. The Act applies to any state or federally chartered bank, trust company, savings and loan association, or credit union headquartered within or outside of New York, that operates at least one ATM within the state. New York's Act requires an ATM facility to contain a surveillance camera or cameras that view and record:

- all persons entering an ATM facility located within the interior of a building; or
- all activity occurring within at least three feet from the front of an ATM located outside a building and open to the outdoor air.

Similar to the bill, the New York law does not require a video camera to record a banking transaction made at the ATM, and a recording must be preserved for at least 45 days. In January 2000, the New York Superintendent of Banks promulgated regulations concerning videotape clarity. These regulations require an institution to use tapes of a particular quality that may only be used for a one-year period. In addition, a particular tape may not be used more than once every 45 days.

The Act further requires an indoor ATM facility to have entry doors equipped with locking devices which permit entry only to persons using a magnetic strip ATM card or similar access device. To the extent practicable, an indoor ATM facility must also consist of one exterior wall that provides an unobstructed view of the interior ATM

facility. Reflective mirrors must permit an individual entering an indoor ATM facility to view areas that would otherwise be concealed to plain view. A clearly visible sign must also be placed in an indoor facility that informs customers of basic safety precautions.

The New York State Banking Department oversees an inspection program designed to satisfy the Act's mandate that all ATM facilities comply with the Act's security requirements. As of December 31, 2009, there were a total of 4,844 ATM facilities in New York, including 1,442 in New York City. The Banking Department performed 6,749 inspections in 2009, including reinspections. The department issued 810 violation notices; at year's end, 582 violations were reinspected and had been corrected. The total cost to New York State Banking Department to administer the ATM inspection program in 2009 was \$305,900.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; New York State Banking Department; Department of Legislative Services

**Fiscal Note History:** First Reader - February 2, 2010  
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