

1 An act relating to automated teller machines;  
 2 creating ss. 655.960, 655.961, 655.962,  
 3 655.963, 655.964, and 655.965, F.S.; providing  
 4 definitions; requiring evaluations of automated  
 5 teller machines; requiring compliance with  
 6 specified standards; providing for a good faith  
 7 standard for evaluating automated teller  
 8 machines; establishing compliance dates for  
 9 operators and persons controlling certain  
 10 areas; specifying standards for lighting,  
 11 mirrors, and landscaping; requiring the  
 12 provision of certain notice; providing  
 13 exemptions; providing for preemption; providing  
 14 an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Sections 655.960, 655.961, 655.962,  
 19 655.963, 655.964, and 655.965, Florida Statutes, are created  
 20 to read:

21 655.960 Definitions.--As used in this section and ss.  
 22 655.961-655.965, unless the context otherwise requires:

23 (1) "Access area" means any paved walkway or sidewalk  
 24 which is within 50 feet of any automated teller machine. The  
 25 term does not include any street or highway open to the use of  
 26 the public, as defined in s. 316.003(53)(a) or (b), including  
 27 any adjacent sidewalk, as defined in s. 316.003(47).

28 (2) "Access device" has the same meaning as set forth  
 29 in Federal Reserve Board Regulation E, 12 C.F.R. part 205,  
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1 promulgated pursuant to the Electronic Fund Transfer Act, 15  
 2 U.S.C. ss. 1601 et seq.

3 (3) "Automated teller machine" means any electronic  
 4 information processing device located in this state which  
 5 accepts or dispenses cash in connection with a credit,  
 6 deposit, checking, or convenience account. The term does not  
 7 include devices used solely to facilitate check guarantees or  
 8 check authorizations or which are used in connection with the  
 9 acceptance or dispensing of cash on a person-to-person basis,  
 10 such as by a store cashier.

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

14 (5) "Control," with respect to an access area or  
 15 defined parking area, means to have the present legal  
 16 authority to determine how, when, and by whom such area is to  
 17 be used, and how such area is to be maintained, lighted, and  
 18 landscaped. If an operator leases an access area or defined  
 19 parking area as lessee, such lessee shall not be considered to  
 20 have control for the purposes of the ss. 655.960-655.965.

21 (6) "Customer" means a natural person to whom an  
 22 access device has been issued for personal, family, or  
 23 household use.

24 (7) "Defined parking area" means that portion of any  
 25 parking area open for customer parking which is contiguous to  
 26 an access area with respect to an automated teller machine, is  
 27 regularly, principally, and lawfully used for parking by users  
 28 of the automated teller machine while conducting automated  
 29 teller machine transactions during the hours of darkness, and  
 30 is owned or leased by the operator of the automated teller  
 31 machine or owned or controlled by the party leasing the

1 automated teller machine site to the operator. The term does  
 2 not include any parking area which is not open or regularly  
 3 used for parking by users of the automated teller machine who  
 4 are conducting automated teller machine transactions during  
 5 the hours of darkness. A parking area is not open if it is  
 6 physically closed to access or if conspicuous signs indicate  
 7 that it is closed. If a multiple level parking area satisfies  
 8 the conditions of this subsection and would therefore  
 9 otherwise be a defined parking area, only the single parking  
 10 level deemed by the operator of the automated teller machine  
 11 to be the most directly accessible to the users of the  
 12 automated teller machine shall be considered a parking area.  
 13 (8) "Financial institution office" means a main office  
 14 or principal office, as defined in s. 655.005, and a branch or  
 15 branch office as defined in s. 658.12(4).  
 16 (9) "Hours of darkness" means the period that  
 17 commences 30 minutes after sunset and ends 30 minutes before  
 18 sunrise.

19 (10) "Operator" means any financial institution, as  
 20 defined in s. 655.005, other business entity, or any person  
 21 who controls the use or operation by a customer or other  
 22 member of the general public of an automated teller machine.  
 23 An operator controls the use or operation of an automated  
 24 teller machine for the purposes of ss. 655.960-655.965 if such  
 25 person or entity has the present legal authority to determine  
 26 when and by whom the automated teller machine may be used or  
 27 operated and how it is to be maintained in compliance with the  
 28 provisions of ss. 655.960-655.965. An operator does not  
 29 include any person or entity which is not a financial  
 30 institution, if the primary function of such person or entity  
 31 is to provide data processing services for automated teller

1 machine transactions or to provide for the exchange, transfer,  
 2 or dissemination of electronic fund transfer data.  
 3 (11) Terms which are defined in the financial  
 4 institution codes, unless the context otherwise requires, have  
 5 the meanings ascribed to them therein for purposes of ss.  
 6 655.960-655.965.

7 655.961 Evaluations.--

8 (1) Each existing automated teller machine shall be  
 9 evaluated by its operator within 1 year after the effective  
 10 date of this section to determine whether such machine is in  
 11 compliance with the provisions of s. 655.962(2), (3), and (4).  
 12 If a machine fails to comply with such provisions, the  
 13 operator shall bring it into compliance within 1 year after  
 14 the effective date of this section.

15 (2) A violation of the provisions of ss. 655.960-  
 16 655.965 or any regulation made pursuant thereto does not  
 17 constitute negligence per se.

18 655.962 Lighting; mirrors; landscaping.--

19 (1) Each operator of an automated teller machine that  
 20 controls the access area or defined parking area to be lighted  
 21 shall comply with subsections (2), (3), and (4) no later than  
 22 1 year after the effective date of this section. If the  
 23 access area or defined parking area to be lighted is  
 24 controlled by a person other than the operator, such other  
 25 person shall comply with subsections (2), (3), and (4) no  
 26 later than 1 year after the effective date of this section.

27 (2) Each operator, or other person responsible for an  
 28 automated teller machine pursuant to ss. 655.960-655.965,  
 29 shall provide lighting during the hours of darkness with  
 30 respect to an open and operating automated teller machine and  
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1 any defined parking area, access area, and the exterior of an  
 2 enclosed automated teller machine installation, as follows:  
 3 (a) There shall be a minimum of 10 candlefoot power at  
 4 the face of the automated teller machine and extending in an  
 5 unobstructed direction outward 5 feet.

6 (b) There shall be a minimum of 2 candlefoot power  
 7 within 50 feet in all unobstructed directions from the face of  
 8 the automated teller machine. If the automated teller machine  
 9 is located within 10 feet of the corner of the building and  
 10 the automated teller machine is generally accessible from the  
 11 adjacent side, there shall be a minimum of 2 candlefoot power  
 12 along the first 40 unobstructed feet of the adjacent side of  
 13 the building.

14 (c) There shall be a minimum of 2 candlefoot power in  
 15 that portion of the defined parking area within 60 feet of the  
 16 automated teller machine.

17 (3) The operator shall provide reflective mirrors or  
 18 surfaces at each automated teller machine which provide the  
 19 customer with a rear view while the customer is engaged in  
 20 using the automated teller machine.

21 (4) The operator, or other person responsible pursuant  
 22 to ss. 655.960-655.965 for an automated teller machine, shall  
 23 ensure that the height of any landscaping, vegetation, or  
 24 other physical obstructions in the area required to be lighted  
 25 pursuant to subsection (2) for any open and operating  
 26 automated teller machine shall not exceed 3 feet, except that  
 27 trees trimmed to a height of 10 feet and whose diameters are  
 28 less than 2 feet and manmade physical obstructions required by  
 29 statute, law, code, ordinance, or other governmental  
 30 regulation shall not be affected by this subsection.  
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1 655.963 Access devices.--Customers receiving access  
 2 devices shall be furnished by the respective issuers thereof  
 3 with such information regarding safety precautions as the  
 4 department may require by rule. This information shall be  
 5 furnished by personally delivering or mailing the information  
 6 to each customer whose mailing address as to the account to  
 7 which the access device relates is in this state. Such  
 8 information shall be furnished with respect to access devices  
 9 issued on or after the effective date of this section, at or  
 10 before the time the customer is furnished with his or her  
 11 access device. With respect to a customer to whom an  
 12 "accepted access device," as defined in Federal Reserve Board  
 13 Regulation E, 12 C.F.R. part 205, has been issued prior to the  
 14 effective date of this section, the information shall be  
 15 delivered on or before 6 months from the effective date of  
 16 this section. Only one notice need be furnished per  
 17 household, and if access devices are furnished to more than  
 18 one customer for a single account or set of accounts or on the  
 19 basis of a single application or other request for access  
 20 devices, only a single notice need be furnished in  
 21 satisfaction of the notification responsibilities as to those  
 22 customers. The information may be included with other  
 23 disclosures related to the access device furnished to the  
 24 customer, such as with any initial or periodic disclosure  
 25 statement furnished pursuant to the Electronic Fund Transfer  
 26 Act.

655.964 Application.--

27 (1) The provisions of ss. 655.961 and 655.962 do not  
 28 apply to any automated teller machine which is:  
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