

Bonus Section B

2556E

Nassau County (New York)
ATM Security Law

LOCAL LAW NO. 9 - 1994

A LOCAL LAW in relation to the adoption of the Automated Teller
Machine Security Protection Act for Bank Customers.

(Became a Local Law on August 15, 1994 with the
approval of the Deputy County Executive. Passed
by the Board of Supervisors on August 15, 1994.
This law takes effect January 1, 1995.)

BE IT ENACTED by the Board of Supervisors of the
County of Nassau as follows:

Section 1. A new Title 23 is hereby added to the
Miscellaneous Laws of Nassau County in relation to the adoption
of the Automated Teller Machine Security Protection Act for
Bank Customers to read as follows:

TITLE 23

AUTOMATED TELLER MACHINE SECURITY PROTECTION ACT FOR
BANK CUSTOMERS

- Section 1. Legislative Intent
- Section 2. Definitions
- Section 3. Security Measures
- Section 4. List of Facilities
- Section 5. Violations and Penalties
- Section 6. Enforcement
- Section 7. Exemption
- Section 8. Applicability
- Section 9. Severability

APPROVED AS TO FORM

Bruce Bundy
DEPUTY COUNTY ATTORNEY

AUTOMATED TELLER MACHINE SECURITY PROTECTION ACT FOR
BANK CUSTOMERS

Section 1. LEGISLATIVE INTENT

The Board of Supervisors hereby finds and determines that the use of automated teller machines (ATM's) to conduct banking transactions has become a fact of daily life for many Nassau County residents; that, because of the location of many of these ATM's and the time of day and night they are used there is a potential risk of robbery and other related crimes for users of these machines; and that currently there are no standards for security at ATM facilities.

Section 2. DEFINITIONS

A. "Access code" shall mean a series of numbers or letters, unique to each banking customer, which when entered into an automated teller machine, grant the customer entry to the customer's account records.

B. "Automated teller machine" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

C. "Automated teller machine card" shall mean an instrument authorized by a bank which permits a customer to gain access to an automated teller machine facility.

D. "Automated teller machine facility" shall mean the area comprised of one or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

E. "Bank" shall mean any banking corporation which operates, owns, or controls an automated teller machine facility within the County of Nassau.

F. "Adequate lighting" with respect to an open and operating automated teller machine facility located on an exterior wall of a building open to the outdoor air, and any defined parking area, shall mean lighting during nighttime hours according to the following standards:

1. minimum of ten (10) candlelight power at the face of the automated teller machine and extending in an unobstructed direction outward five (5) feet; and

2. a minimum of two (2) candlefoot power within fifty (50) feet from all unobstructed directions from the face of the automated teller machines. If such machine is located within ten (10) feet of the corner of the building and the automated teller machine facility is generally accessible from the adjacent side, there shall be a minimum of two (2) candlefoot power along the first forty (40) unobstructed feet of the adjacent side of the building.

G. "Adequate lighting" with respect to defined parking areas shall mean a minimum of two (2) candlefoot power in that portion of the parking area within the sixty (60) feet of the automated teller machine facility.

H. "Adequate lighting" with respect to an automated teller machine facility located within the interior of a building shall mean lighting on a twenty-four (24) hour basis, which permits a person entering the facility to readily and easily see all persons at the entry door of such facility.

I. "Defined parking area" shall mean that portion of any parking area for bank customer parking which is:

1. contiguous to any paved walkway or sidewalk within fifty (50) feet of an automated teller machine facility;

2. regularly, principally, and lawfully used for parking by users of the automated teller machine facility while conducting transactions at such automated teller machine facility during nighttime hours; and

3. owned or leased by the operator of the automated teller machine facility, or owned or otherwise controlled by the party leasing the automated teller machine facility site to the operator. The term does not include any parking area which is not open or regularly used for parking by the users of the automated teller machine who are conducting automated teller machine transactions during nighttime hours. A parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed.

J. "Nighttime hours" shall mean the period of time beginning at sunset and ending at sunrise.

K. "Candlefoot power" shall mean the light intensity of candles on a horizontal place at thirty-six (36) inches above ground level and five (5) feet in front of the area to be measured.

L. "Regular banking hours" shall mean the hours a branch is normally open for normal transactions of business with the banking public.

Section 3. SECURITY MEASURES

A. A bank shall maintain the following security measures with respect to each of its automated teller machine facilities:

1. a surveillance camera or cameras which shall view and record all persons entering an automated teller machine facility located within the interior of a building, or which shall view and record all activity occurring within a minimum of three (3) feet in front of an automated teller

machine located on an exterior wall of a building open to the outdoor air. Such camera or cameras need not view and record banking transactions made at the automated teller machine. The recordings made by such cameras shall be preserved by the bank for at least thirty (30) days;

2. entry doors equipped with locking devices which permit entry to such facility only to persons using a magnetic-strip plastic card or similar device issued by a bank for that purpose;

3. adequate lighting;

4. a reflective mirror or mirrors placed in a manner which permits a person entering the automated teller machine facility to view areas within such facility which are otherwise concealed from plain view; and

5. a clearly visible sign, which at a minimum states:

a) the activity within the automated teller machine facility is being recorded by surveillance camera;

b) customers should close the entry door completely upon entering if the automated teller machine facility is located within the interior of a building;

c) customers should not permit entrance to any unknown person at any time after regular banking hours when an automated teller machine facility located within the interior of a building is available to banking customers; and

d) customers should place withdrawn cash securely upon their person before exiting the automated teller machine facility.

B. Subdivisions two and four of Paragraph A and subsections b and c of subdivision 5 of Paragraph A shall not apply to any automated teller machine facility located on an exterior wall of a building open to the outdoor air.

Section 4. LIST OF FACILITIES

A. Any bank which operates an automated teller machine facility shall file a list of such facilities with the Office of Consumer Affairs, including the street addresses, intersecting streets, hours of operation, method of security, and method of surveillance at each facility, and the telephone number of the bank's security department.

B. Within thirty (30) days after the effective date of this Title, and each year thereafter, every bank which has an automated teller machine facility, which is in operation on such date or on such date every year thereafter, shall submit a written report to the Office of Consumer Affairs on a form prescribed by the Office, indicating that such automated teller machine facility is in compliance with the provisions of this Title.

Section 5. VIOLATIONS AND PENALTIES

A. A bank found to be in willful violation of any provision of Section 3 of this Title shall be subject to a civil penalty of not more than Two Hundred Fifty Dollars (\$250.00). Each such willful violation of any provision of Section 3 of this Title with respect to a particular automated teller machine facility shall be considered a separate violation thereof.

B. Any bank found to be in willful violation of any provision of Section 3 of this Title shall also correct the violation within ten (10) days after such finding. Failure to correct the violation within ten (10) days after such finding shall subject the bank to an additional civil penalty of not less than Five Hundred Dollars (\$500.00) or more than One Thousand Dollars (\$1,000.00) for each report.

