



Senate

General Assembly

File No. 159

February Session, 2000

Substitute Senate Bill No. 11

Senate, March 22, 2000

The Committee on Banks reported through SEN. MCDERMOTT of the 34th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning The Establishment Of Automated Teller Machines.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-2 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 As used in this title, unless the context otherwise requires:

4 (1) "Affiliate" of a person means any person controlling, controlled
5 by, or under common control with, that person;

6 (2) "Applicant" with respect to any license or approval provision
7 pursuant to this title means a person who applies for that license or
8 approval;

9 (3) "Automated teller machine" means a stationary or mobile
10 unattended device, including a satellite device but excluding a point of
11 sale terminal, at which banking transactions, including, but not limited

12 to, deposits, withdrawals, advances, payments or transfers, may be
13 conducted;

14 (4) "Bank" means a Connecticut bank or a federal bank;

15 (5) "Bank and trust company" means an institution chartered or
16 organized under the laws of this state as a bank and trust company;

17 (6) "Bank holding company" has the meaning given to that term in
18 12 USC Section 1841(a), as from time to time amended, except that the
19 term "bank", as used in 12 USC Section 1841(a) includes a bank or out-
20 of-state bank that functions solely in a trust or fiduciary capacity;

21 (7) "Capital stock" when used in conjunction with any bank or out-
22 of-state bank means a bank or out-of-state bank that is authorized to
23 accumulate funds through the issuance of its capital stock;

24 (8) "Club deposit" means deposits to be received at regular intervals,
25 the whole amount deposited to be withdrawn by the owner or repaid
26 by the bank in not more than fifteen months from the date of the first
27 deposit, and upon which no interest or dividends need to be paid;

28 (9) "Commissioner" means the Commissioner of Banking. With
29 respect to any function of the commissioner, "commissioner" includes
30 any person authorized or designated by the commissioner to carry out
31 that function;

32 (10) "Company" means any corporation, joint stock company, trust,
33 association, partnership, limited partnership, unincorporated
34 organization, limited liability company or similar organization, but
35 does not include (A) any corporation the majority of the shares of
36 which are owned by the United States or by any state, or (B) any trust
37 which by its terms must terminate within twenty-five years or not later
38 than twenty-one years and ten months after the death of beneficiaries
39 living on the effective date of the trust;

40 (11) "Connecticut bank" means a bank and trust company, savings
41 bank or savings and loan association chartered or organized under the
42 laws of this state;

43 (12) "Connecticut credit union" means a cooperative, nonprofit
44 association, the membership of which is limited as provided in section
45 36a-438 which is incorporated without capital stock under the laws of
46 this state and licensed under chapter 667 for the purposes of
47 encouraging thrift among its members, creating a source of credit at a
48 fair and reasonable rate of interest and providing an opportunity for its
49 members to use and control their own money to improve their
50 economic and social condition;

51 (13) "Consolidation" means a combination of two or more
52 institutions into a new institution. All institutions party to the
53 consolidation, other than the new institution, are "constituent"
54 institutions; the new institution is the "resulting" institution;

55 (14) "Control" has the meaning given to that term in 12 USC Section
56 1841(a), as from time to time amended;

57 (15) "Customer" means any person using a service offered by a
58 financial institution;

59 (16) "Demand account" means an account into which demand
60 deposits may be made;

61 (17) "Demand deposit" means a deposit that is payable on demand,
62 a deposit issued with an original maturity or required notice period of
63 less than seven days or a deposit representing funds for which the
64 bank does not reserve the right to require at least seven days' written
65 notice of the intended withdrawal, but does not include any time
66 deposit;

67 (18) "Deposit" means funds deposited with a depository;

68 (19) "Deposit account" means an account into which deposits may
69 be made;

70 (20) "Depositor" includes a member of a mutual savings and loan
71 association;

72 (21) "Director" means a member of the governing board of a
73 financial institution;

74 (22) "Equity capital" means the excess of a Connecticut bank's total
75 assets over its total liabilities, as defined in the instructions of the
76 federal Financial Institutions Examination Council for consolidated
77 reports of condition and income;

78 (23) "Executive officer" means every officer of a Connecticut bank
79 who participates or has authority to participate, otherwise than in the
80 capacity of a director, in major policy-making functions of such bank,
81 regardless of whether such officer has an official title or whether that
82 title contains a designation of assistant and regardless of whether such
83 officer is serving without salary or other compensation. The president,
84 vice president, secretary and treasurer of such bank are deemed to be
85 executive officers, unless, by resolution of the governing board or by
86 such bank's bylaws, any such officer is excluded from participation in
87 major policy-making functions, otherwise than in the capacity of a
88 director of such bank, and such officer does not actually participate in
89 such policy-making functions;

90 (24) "Federal agency" has the meaning given to that term in 12 USC
91 Section 3101, as from time to time amended;

92 (25) "Federal bank" means a national banking association, federal
93 savings bank or federal savings and loan association having its
94 principal office in this state;

95 (26) "Federal branch" has the meaning given to that term in 12 USC
96 Section 3101, as from time to time amended;

97 (27) "Federal credit union" means any institution chartered or
98 organized as a federal credit union pursuant to the laws of the United
99 States having its principal office in this state;

100 (28) "Fiduciary" means a person undertaking to act alone or jointly
101 with others primarily for the benefit of another or others in all matters
102 connected with its undertaking and includes a person acting in the
103 capacity of trustee, executor, administrator, guardian, assignee,
104 receiver, conservator, agent, custodian under the Connecticut Uniform
105 Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting
106 in any other similar capacity;

107 (29) "Financial institution" means any Connecticut bank,
108 Connecticut credit union, or other person whose activities in this state
109 are subject to the supervision of the commissioner, but does not
110 include a person whose activities are subject to the supervision of the
111 commissioner solely pursuant to chapter 672a, 672b or 672c or any
112 combination thereof;

113 (30) "Foreign bank" has the meaning given to that term in 12 USC
114 Section 3101, as from time to time amended;

115 (31) "Foreign country" means any country other than the United
116 States and includes any colony, dependency or possession of any such
117 country;

118 (32) "Governing board" means the group of persons vested with the
119 management of the affairs of a financial institution irrespective of the
120 name by which such group is designated;

121 (33) "Holding company" means a bank holding company or a
122 savings and loan holding company, except, as used in sections 36a-180
123 to 36a-191, inclusive, "holding company" means a bank holding
124 company or a savings and loan holding company that controls a bank;

125 (34) "Insured depository institution" has the meaning given to that

126 term in 12 USC Section 1813, as from time to time amended;

127 (35) "Licensee" means any person who is licensed or required to be
128 licensed pursuant to the applicable provisions of this title;

129 (36) "Loan" includes any line of credit or other extension of credit;

130 (37) "Merger" means the combination of one or more institutions
131 with another which continues its corporate existence. All institutions
132 party to the merger are "constituent" institutions; the merging
133 institution which upon the merger continues its existence is the
134 "resulting" institution;

135 (38) "Mutual" when used in conjunction with any institution that is a
136 bank or out-of-state bank means any such institution without capital
137 stock;

138 (39) "Mutual holding company" means any mutual savings bank or
139 mutual savings and loan association reorganized or any nonstock
140 corporation formed in connection with a reorganization pursuant to
141 sections 36a-192 to 36a-199, inclusive, to hold a majority of the
142 ordinary voting shares of a reorganized savings institution;

143 (40) "Out-of-state" includes any state other than Connecticut and
144 any foreign country;

145 (41) "Out-of-state bank" means any institution that engages in the
146 business of banking, but does not include a bank, Connecticut credit
147 union, federal credit union or out-of-state credit union;

148 (42) "Out-of-state credit union" means any credit union other than a
149 Connecticut credit union or a federal credit union;

150 (43) "Out-of-state trust company" means any company chartered to
151 act as a fiduciary but does not include a company chartered under the
152 laws of this state, a bank, an out-of-state bank, a Connecticut credit

153 union, a federal credit union or an out-of-state credit union;

154 (44) "Person" means an individual, company, including a company
155 described in subparagraphs (A) and (B) of subdivision (10) of this
156 section, or any other legal entity, including a federal, state or municipal
157 government or agency or any political subdivision thereof;

158 (45) "Point of sale terminal" means a device located in a commercial
159 establishment at which sales transactions can be charged directly to the
160 buyer's deposit, loan or credit account, but at which deposit
161 transactions cannot be conducted;

162 (46) "Reorganized savings bank" means any savings bank
163 incorporated and organized in accordance with sections 36a-192 and
164 36a-193 a majority of the ordinary voting shares of which is owned by
165 a mutual holding company;

166 (47) "Reorganized savings and loan association" means any savings
167 and loan association incorporated and organized in accordance with
168 sections 36a-192 and 36a-193 a majority of the ordinary voting shares
169 of which is owned by a mutual holding company;

170 (48) "Reorganized savings institution" means any reorganized
171 savings bank or reorganized savings and loan association;

172 (49) "Representative office" has the meaning given to that term in 12
173 USC Section 3101, as from time to time amended;

174 (50) "Reserves for loan and lease losses" means the amounts
175 reserved by a Connecticut bank against possible loan and lease losses
176 as shown on the bank's consolidated reports of condition and income;

177 (51) "Satellite device" means an automated teller machine which is
178 not part of an office of the bank, out-of-state bank, Connecticut credit
179 union, [or] federal credit union or out-of-state credit union which has
180 established such machine;

181 (52) "Savings account" means a deposit account, other than an
182 escrow account established pursuant to section 49-2a, into which
183 savings deposits may be made and which account must be evidenced
184 by periodic statements delivered at least semiannually or by a
185 passbook;

186 (53) "Savings and loan association" means an institution chartered or
187 organized under the laws of this state as a savings and loan
188 association;

189 (54) "Savings bank" means an institution chartered or organized
190 under the laws of this state as a savings bank;

191 (55) "Savings deposit" means any deposit other than a demand
192 deposit or time deposit on which interest or a dividend is paid
193 periodically;

194 (56) "Savings and loan holding company" has the meaning given to
195 that term in 12 USC Section 1467a, as from time to time amended;

196 (57) "State" means any state of the United States, the District of
197 Columbia, any territory of the United States, Puerto Rico, Guam,
198 American Samoa, the trust territory of the Pacific Islands, the Virgin
199 Islands and the Northern Mariana Islands;

200 (58) "State agency" has the meaning given to that term in 12 USC
201 Section 3101, as from time to time amended;

202 (59) "State branch" has the meaning given to that term in 12 USC
203 Section 3101, as from time to time amended;

204 (60) "Subsidiary" has the meaning given to that term in 12 USC
205 Section 1841(d), as from time to time amended;

206 (61) "Supervisory agency" means: (A) The commissioner; (B) the
207 Federal Deposit Insurance Corporation; (C) the Resolution Trust

208 Corporation; (D) the Office of Thrift Supervision; (E) the National
209 Credit Union Administration; (F) the Board of Governors of the
210 Federal Reserve System; (G) the United States Comptroller of the
211 Currency; and (H) any successor to any of the foregoing agencies or
212 individuals;

213 (62) "Time account" means an account into which time deposits may
214 be made; and

215 (63) "Time deposit" means a deposit that the depositor does not
216 have a right and is not permitted to make withdrawals from within six
217 days after the date of deposit, unless the deposit is subject to an early
218 withdrawal penalty of at least seven days' simple interest on amounts
219 withdrawn within the first six days after deposit, subject to those
220 exceptions permissible under Title 12, Part 204 of the Code of Federal
221 Regulations, as from time to time amended.

222 Sec. 2. Section 36a-3 of the general statutes, as amended by section 1
223 of public act 99-22, section 1 of public act 99-63 and section 1 of public
224 act 99-158, is repealed and the following is substituted in lieu thereof:

225 Other definitions applying to this title or to specified parts thereof
226 and the sections in which they appear are:

227 "Account". Sections 36a-155, as amended by section 3 of this act, and
228 36a-365.

229 "Advance fee". Sections 36a-510, 36a-485 and 36a-615.

230 "Advertise" or "advertisement". Sections 36a-485 and 36a-510.

231 "Agency bank". Section 36a-285.

232 "Alternative mortgage loan". Section 36a-265.

233 "Amount financed". Section 36a-690.

- 234 "Annual percentage rate". Section 36a-690.
- 235 "Annual percentage yield". Section 36a-316.
- 236 "Applicant". Section 36a-736.
- 237 "Associate". Section 36a-184.
- 238 "Bank". Section 36a-30.
- 239 "Bankers' bank". Section 36a-70.
- 240 "Banking business". Section 36a-425.
- 241 "Billing cycle". Section 36a-565.
- 242 "Bona fide nonprofit organization". Section 36a-655.
- 243 "Branch". Sections 36a-145 and 36a-410.
- 244 "Branch or agency net payment entitlement". Section 36a-428n.
- 245 "Branch or agency net payment obligation". Section 36a-428n.
- 246 "Broker". Section 36a-510.
- 247 "Business and industrial development corporation". Section 36a-626.
- 248 "Business and property in this state". Section 36a-428n.
- 249 "Cash advance". Section 36a-564.
- 250 "Cash dispensing machine". Section 7 of this act.
- 251 "Cash price". Section 36a-770.
- 252 "Certificate of organization". Section 36a-435.
- 253 "Closely related activities". Section 36a-250.

- 254 "Collective managing agency account". Section 36a-365.
- 255 "Commercial vehicle". Section 36a-770.
- 256 "Community bank". Section 36a-70.
- 257 "Community development bank". Section 36a-70.
- 258 "Connecticut holding company". Section 36a-410.
- 259 "Consumer". Sections 36a-155, as amended by section 3 of this act,
260 36a-676 and 36a-695.
- 261 "Consumer Credit Protection Act". Section 36a-676.
- 262 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.
- 263 "Consumer collection agency". Section 36a-800.
- 264 "Controlling interest". Section 36a-276.
- 265 "Credit". Sections 36a-645 and 36a-676.
- 266 "Creditor". Sections 36a-676, 36a-695 and 36a-800.
- 267 "Credit card", "cardholder" and "card issuer". Section 36a-676.
- 268 "Credit clinic". Section 36a-695.
- 269 "Credit rating agency". Section 36a-695.
- 270 "Credit report". Section 36a-695.
- 271 "Credit sale". Section 36a-676.
- 272 "De novo branch". Section 36a-410.
- 273 "Debt". Section 36a-645.
- 274 "Debt adjustment". Section 36a-655.

- 275 "Debt mutual fund". Section 36a-275.
- 276 "Debt securities". Section 36a-275.
- 277 "Deliver". Section 36a-316.
- 278 "Deposit". Section 36a-316.
- 279 "Deposit account". Section 36a-316.
- 280 "Deposit account charge". Section 36a-316.
- 281 "Deposit account disclosures". Section 36a-316.
- 282 "Deposit contract". Section 36a-316.
- 283 "Deposit services". Section 36a-425.
- 284 "Depositor". Section 36a-316.
- 285 "Earning period". Section 36a-316.
- 286 "Electronic payment instrument". Section 36a-596.
- 287 "Eligible account holder". Section 36a-136.
- 288 "Eligible collateral". Section 36a-330.
- 289 "Equity mutual fund". Section 36a-276.
- 290 "Federal Home Mortgage Disclosures Act". Section 36a-736.
- 291 "Fiduciary". Section 36a-365.
- 292 "Filing fee". Section 36a-770.
- 293 "Finance charge". Sections 36a-690 and 36a-770.
- 294 "Financial institution". Sections 36a-41, 36a-155, as amended by
295 section 3 of this act, 36a-316, 36a-330 and 36a-736.
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- 296 "Financial records". Section 36a-41.
- 297 "First mortgage loan". Sections 36a-485, 36a-705 and 36a-715.
- 298 "Fiscal year". Section 36a-435.
- 299 "Foreign banking corporation". Section 36a-425.
- 300 "General facility". Section 36a-580.
- 301 "Global net payment entitlement". Section 36a-428n.
- 302 "Global net payment obligation". Section 36a-428n.
- 303 "Goods". Sections 36a-535 and 36a-770.
- 304 "Graduated payment mortgage loan". Section 36a-265.
- 305 "Guardian". Section 36a-365.
- 306 "Holder". Section 36a-596.
- 307 "Home banking services". Section 36a-170.
- 308 "Home banking terminal". Section 36a-170.
- 309 "Home improvement loan". Section 36a-736.
- 310 "Home purchase loan". Section 36a-736.
- 311 "Home state". Section 36a-410.
- 312 "Immediate family". Section 36a-435.
- 313 "Instalment loan contract". Sections 36a-535 and 36a-770.
- 314 "Instrument". Section 36a-596.
- 315 "Insurance bank". Section 36a-285.

- 316 "Insurance department". Section 36a-285.
- 317 "Interest". Section 36a-316.
- 318 "Interest rate". Section 36a-316.
- 319 "Lender". Sections 36a-510 and 36a-770.
- 320 "Lessor". Section 36a-676.
- 321 "License". Section 36a-626.
- 322 "Licensee". Sections 36a-510, 36a-596 and 36a-626.
- 323 "Limited branch". Section 36a-145.
- 324 "Limited facility". Section 36a-580.
- 325 "Loan broker". Section 36a-615.
- 326 "Loss". Section 36a-330.
- 327 "Made in this state". Section 36a-770.
- 328 "Managing agent". Section 36a-365.
- 329 "Member". Section 36a-435.
- 330 "Membership share". Section 36a-435.
- 331 "Money order". Section 36a-596.
- 332 "Mortgage broker". Section 36a-485.
- 333 "Mortgage insurance". Section 36a-725.
- 334 "Mortgage lender". Sections 36a-485 and 36a-705.
- 335 "Mortgage loan". Sections 36a-261 and 36a-265.

- 336 "Mortgage rate lock-in". Section 36a-705.
- 337 "Mortgage servicing company". Section 36a-715.
- 338 "Mortgagor". Section 36a-715.
- 339 "Motor vehicle". Section 36a-770.
- 340 "Multiple common bond membership". Section 36a-435.
- 341 "Municipality". Section 36a-800.
- 342 "Net worth". Section 36a-596.
- 343 "Network". Section 36a-155, as amended by section 3 of this act.
- 344 "Nonbank". Section 6 of this act.
- 345 "Note account". Sections 36a-301 and 36a-445.
- 346 "Office ". Section 36a-316.
- 347 "Open-end credit plan". Section 36a-676.
- 348 "Open-end loan". Section 36a-565.
- 349 "Organization". Section 36a-800.
- 350 "Out-of-state holding company". Section 36a-410.
- 351 "Outstanding". Section 36a-596.
- 352 "Passbook savings account". Section 36a-316.
- 353 "Periodic statement". Section 36a-316.
- 354 "Permissible investment". Section 36a-596.
- 355 "Person". Section 36a-184.

- 356 "Post". Section 36a-316.
- 357 "Prime quality". Section 36a-596.
- 358 "Principal amount of the loan". Section 36a-510.
- 359 "Principal officer". Section 36a-485.
- 360 "Processor". Section 36a-155, as amended by section 3 of this act.
- 361 "Public deposit". Section 36a-330.
- 362 "Purchaser". Section 36a-596.
- 363 "Qualified financial contract". Section 36a-428n.
- 364 "Qualified public depository" and "depository". Section 36a-330.
- 365 "Records". Section 36a-17.
- 366 "Relocate". Section 36a-145.
- 367 "Residential property". Section 36a-485.
- 368 "Retail buyer". Sections 36a-535 and 36a-770.
- 369 "Retail credit transaction". Section 42-100b.
- 370 "Retail deposits". Section 36a-70.
- 371 "Retail instalment contract". Sections 36a-535 and 36a-770.
- 372 "Retail instalment sale". Sections 36a-535 and 36a-770.
- 373 "Retail seller". Sections 36a-535 and 36a-770.
- 374 "Reverse annuity mortgage loan". Section 36a-265.
- 375 "Sales finance company". Sections 36a-535 and 36a-770.

- 376 "Savings department". Section 36a-285.
- 377 "Savings deposit". Section 36a-316.
- 378 "Secondary mortgage loan". Section 36a-510.
- 379 "Security convertible into a voting security". Section 36a-184.
- 380 "Share". Section 36a-435.
- 381 "Simulated check". Sections 36a-485 and 36a-510.
- 382 "Single common bond membership". Section 36a-435.
- 383 "Social purpose investment". Section 36a-277.
- 384 "Standard mortgage loan". Section 36a-265.
- 385 "Tax and loan account". Sections 36a-301 and 36a-445.
- 386 "The Savings Bank Life Insurance Company". Section 36a-285.
- 387 "Time account". Section 36a-316.
- 388 "Transaction". Section 36a-215.
- 389 "Travelers check". Section 36a-596.
- 390 "Troubled financial institution". Section 36a-215.
- 391 "Uninsured bank". Section 36a-70.
- 392 "Unsecured loan". Section 36a-615.
- 393 Sec. 3. Section 36a-155 of the general statutes is repealed and the
- 394 following is substituted in lieu thereof:
- 395 [(a) One or more banks, Connecticut credit unions or federal credit
- 396 unions]

397 (a) (1) Any bank, Connecticut credit union or federal credit union
398 may establish, and use on a transaction fee basis, automated teller
399 machines that are not satellite devices located within this state. [, and
400 use on a transaction fee basis automated teller machines that are not
401 satellite devices located within this state or established outside this
402 state. One or more banks, Connecticut credit unions or federal credit
403 unions may establish satellite devices within this state and one or more
404 banks, Connecticut credit unions or federal credit unions may use on a
405 transaction fee basis satellite devices located within this state or
406 established outside this state.] Any Connecticut bank that maintains a
407 branch outside this state or Connecticut credit union that maintains a
408 subsidiary office outside this state, may establish and use automated
409 teller machines that are not satellite devices outside this state. Any
410 bank, Connecticut credit union or federal credit union may establish,
411 and use on a transaction fee basis, satellite devices located in this state.
412 Any Connecticut bank or Connecticut credit union may establish and
413 use satellite devices located outside this state.

414 (2) Any out-of-state bank that maintains a branch in this state or
415 out-of-state credit union that maintains a subsidiary office in this state
416 may establish, and use on a transaction fee basis, automated teller
417 machines that are not satellite devices located within this state. Any
418 out-of-state bank or out-of-state credit union may establish, and use on
419 a transaction fee basis, satellite devices located within this state.

420 (3) Any bank, Connecticut credit union, [or] federal credit union,
421 out-of-state bank or out-of-state credit union may establish and use
422 point of sale terminals. Nothing in this chapter shall prohibit the
423 establishment or use of a point of sale terminal located within this state
424 by a commercial establishment located within this state.

425 (b) The commissioner may adopt such regulations in accordance
426 with the provisions of chapter 54 as may be necessary to carry out the
427 purpose of sections 36a-155 to 36a-159, inclusive, as amended by this

428 act, and section 36a-170. Such regulations may include, but shall not be
429 limited to: (1) Requirements for the filing of information with the
430 commissioner by any financial institution, network or processor in
431 connection with (A) the establishment or use of automated teller
432 machines, point of sale terminals or similar retail electronic banking
433 facilities in this state, (B) the provision of home banking services in this
434 state, and (C) the provision of network or processing services in this
435 state; (2) provisions concerning services that may be provided at
436 automated teller machines, point of sale terminals or similar retail
437 electronic banking facilities located in this state, or by means of home
438 banking terminals located in this state, including services that may be
439 offered on a proprietary basis; and (3) provisions concerning the safety
440 of persons using automated teller machines or similar retail electronic
441 banking facilities. As used in this subsection, "financial institution"
442 means any bank, Connecticut credit union, federal credit union, out-of-
443 state bank or out-of-state credit union, [authorized under Connecticut
444 or federal law to accept deposits within this state,] or any other person
445 having a place of business in this state who holds an account belonging
446 to a consumer and who agrees with the consumer to provide electronic
447 fund transfer services subject to the provisions of 12 CFR Part 205, as
448 from time to time amended, at automated teller machines, point of sale
449 terminals or similar retail electronic banking facilities in this state;
450 "account" means a demand deposit, savings deposit, share, member or
451 other consumer asset account, held either directly or indirectly, and
452 established primarily for personal, family or household purposes,
453 including a line of credit extended to a consumer, but not including an
454 occasional or incidental credit balance in a credit plan; "consumer"
455 means a natural person residing in this state; "network" means one or
456 more financial institutions or other persons that own and operate one
457 or more network systems or facilities, or provide communications or
458 processing services to one or more automated teller machines, point of
459 sale terminals or similar retail electronic banking facilities located in
460 this state, or to one or more home banking terminals located in this

461 state; and "processor" means one or more persons that provide
462 communications, processing, clearing, settlement or related services to
463 one or more financial institutions in connection with the operation of
464 one or more automated teller machines, point of sale terminals or
465 similar retail electronic banking facilities located in this state, or one or
466 more home banking terminals located in this state.

467 Sec. 4. Section 36a-156 of the general statutes is repealed and the
468 following is substituted in lieu thereof:

469 (a) One or more banks, Connecticut credit unions, [or] federal credit
470 unions, out-of-state banks or out-of-state credit unions which have
471 established a satellite device or point of sale terminal shall make the
472 satellite device or point of sale terminal available on a
473 nondiscriminatory basis for use by any other bank, Connecticut credit
474 union, [or] federal credit union, out-of-state bank or out-of-state credit
475 union upon payment by each such other bank or credit union of a
476 reasonably proportionate share of all acquisition, installation and
477 operating costs of the satellite device or point of sale terminal. The
478 satellite device or point of sale terminal shall identify with equal
479 prominence all of the banks, credit unions or network systems which
480 use the satellite device or point of sale terminal.

481 (b) Any bank, Connecticut credit union, [or] federal credit union,
482 out-of-state bank or out-of-state credit union which has established an
483 automated teller machine which is not a satellite device in accordance
484 with subsection (a) of section 36a-155, as amended by section 3 of this
485 act, may, in its discretion, permit any other bank, Connecticut credit
486 union, [or] federal credit union, out-of-state bank or out-of-state credit
487 union to use such automated teller machine, provided, (1) if such
488 permission is granted to any other bank, Connecticut credit union, [or]
489 federal credit union, out-of-state bank or out-of-state credit union, the
490 automated teller machine is made available on a nondiscriminatory
491 basis for use by any other bank, Connecticut credit union, [or] federal

492 credit union, out-of-state bank or out-of-state credit union, upon
493 payment of reasonably proportionate costs as described under
494 subsection (a) of this section, and (2) such use is otherwise in
495 accordance with subsection (a) of this section.

496 Sec. 5. (NEW) To the extent that the charging of a fee by a bank,
497 Connecticut credit union, federal credit union, out-of-state bank or out-
498 of-state credit union for use of its automated teller machine by a
499 person who is not a depository customer of such bank, Connecticut
500 credit union, federal credit union, out-of-state bank or out-of-state
501 credit union is not prohibited by law, such bank, Connecticut credit
502 union, federal credit union, out-of-state bank or out-of-state credit
503 union may not charge such fee unless the amount of such fee is clearly
504 and conspicuously disclosed:

505 (1) On a sign posted on the automated teller machine or in clear
506 view of a person viewing the automated teller machine; and

507 (2) Electronically during the course of the transaction in a manner
508 that permits the person to cancel the transaction without incurring the
509 fee.

510 Sec. 6. (NEW) As used in sections 6 to 11, inclusive, of this act:

511 (1) "Cash dispensing machine" means an automated teller machine
512 established by a nonbank at which withdrawals, advances, transfers
513 and balance inquiries are the only banking transactions that may be
514 conducted.

515 (2) "Nonbank" means any person other than a bank, Connecticut
516 credit union, federal credit union, out-of-state bank or out-of-state
517 credit union.

518 Sec. 7. (NEW) (a) No nonbank shall establish a cash dispensing
519 machine in this state unless such nonbank has obtained a license under
520 this section.

521 (b) An application for a cash dispensing machine license or renewal
522 of such license shall be in writing, under oath and on a form provided
523 by the commissioner. The application shall set forth: (1) The name and
524 address of the applicant; (2) if the applicant is a firm or partnership,
525 the names and addresses of each member of the firm or partnership;
526 (3) if the applicant is a corporation, the names and addresses of each
527 officer, director, authorized agent and each shareholder owning ten
528 per cent or more of the outstanding stock of such corporation; (4) each
529 location where a cash dispensing machine is to be established; and (5)
530 any other information the commissioner may require.

531 (c) Upon the filing of the required application and the applicable
532 application fee, the commissioner shall investigate the facts and may
533 issue a license if the commissioner finds that (1) the applicant is in all
534 respects properly qualified and of good character, (2) if the applicant is
535 a firm or partnership, each member of the firm or partnership is in all
536 respects properly qualified and of good character, (3) if the applicant is
537 a corporation, each officer, director, and authorized agent and each
538 shareholder owning ten per cent or more of the outstanding stock of
539 such corporation is in all respects properly qualified and of good
540 character, and (4) granting such license would not be against the public
541 interest.

542 (d) No licensee may establish any additional cash dispensing
543 machine without filing a notice for such cash dispensing machine
544 accompanied by the applicable fee. No licensee may change the
545 location of a cash dispensing machine without prior notification to the
546 commissioner.

547 Sec. 8. (NEW) (a) Each applicant for a cash dispensing machine
548 license shall pay to the commissioner, a nonrefundable application fee
549 of five hundred dollars. Each licensee shall pay to the commissioner a
550 fee of fifty dollars for each additional cash dispensing machine
551 established by the licensee. Each license issued pursuant to section 7 of

552 this act shall expire at the close of business on June thirtieth of each
553 year unless such license is renewed. Each licensee shall, on or before
554 June twentieth of each year, pay to the commissioner a renewal
555 application fee of fifty dollars for each cash dispensing machine.

556 (b) Each applicant or licensee shall pay the expenses of any
557 examination or other investigation under sections 6 to 11, inclusive, of
558 this act.

559 (c) No abatement of any application or notice fee shall be made if
560 the license is surrendered, cancelled, revoked or suspended prior to
561 the expiration of the period for which it was issued.

562 Sec. 9. (NEW) (a) A cash dispensing machine licensee shall clearly
563 and conspicuously disclose on a sign posted on the cash dispensing
564 machine or in clear view of a consumer viewing the cash dispensing
565 machine:

566 (1) The name of the nonbank that established the cash dispensing
567 machine;

568 (2) A disclaimer indicating that such person is not a bank or a credit
569 union;

570 (3) The name, address, and twenty-four hour toll-free telephone
571 number where a consumer may direct inquires or complaints; and

572 (4) Evidence of licensure in the form prescribed by the
573 commissioner.

574 (b) A cash dispensing machine licensee may not charge a fee for use
575 of a cash dispensing machine unless the amount of the fee is clearly
576 and conspicuously disclosed:

577 (1) On a sign posted on the cash dispensing machine or in clear view
578 of a person viewing the cash dispensing machine; and

579 (2) Electronically during the course of the transaction in a manner
580 that permits the person to cancel the transaction without incurring the
581 fee.

582 (c) No cash dispensing machine licensee may charge a fee for use of
583 a cash dispensing machine if the amount of the fee is greater than one
584 dollar and fifty cents.

585 Sec. 10. (NEW) Each cash dispensing machine licensee shall
586 maintain and, upon request, make available to the commissioner, in a
587 form satisfactory to the commissioner, such books, records and
588 accounts as will enable the commissioner to verify the daily activity at
589 each of its cash dispensing machines. Each licensee shall retain such
590 books, records and accounts for not less than ninety days from the date
591 of each transaction.

592 Sec. 11. (NEW) The commissioner may suspend, revoke or refuse to
593 renew any license issued pursuant to section 7 of this act, in
594 accordance with the provisions of section 36a-51 of the general
595 statutes, for any reason that would be sufficient grounds for the
596 commissioner to deny an application for a license under section 7 of
597 this act, or if the commissioner finds that the licensee or any owner,
598 director, officer, member, partner, trustee, employee or agent of such
599 licensee has done any of the following: (1) Made any material
600 misstatement in the application; (2) committed any fraud, engaged in
601 dishonest activities or made any misrepresentation; (3) in connection
602 with the operation of a cash dispensing machine business,
603 demonstrated incompetency; or (4) violated any provision of sections 6
604 to 11, inclusive, of this act, or any regulation adopted thereunder.

605 Sec. 12. Section 36a-158 of the general statutes is repealed.

Statement of Legislative Commissioners:

Section 5 moved to the end of the act and "promulgated" was changed to "adopted" in section 11 for conformity with the style of the general statutes.

BA Committee Vote: Yea 12 Nay 5 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Revenue Gain

Affected Agencies: Department of Banking (Banking Fund)

Municipal Impact: None

Explanation

State Impact:

There is a potential revenue gain for the Banking Fund as a result of the passage of this bill. The bill authorizes nonbanks to establish cash dispensing machines in the state. A nonbank is required to pay a one time \$500 application fee for a cash dispensing machine and a \$50 fee for each additional machine it wants to establish. There will also be a \$50 annual renewal fee for each machine. The number of machines that nonbanks want to establish is uncertain, therefore the total revenue gain cannot be determined.

The Department of Banking will incur a workload increase with the processing of applications for cash dispensing machines by nonbanks. This responsibility can be handled within the anticipated budgetary resources of the Department of Banking.

OLR Bill Analysis

sSB 11

AN ACT CONCERNING THE ESTABLISHMENT OF AUTOMATED TELLER MACHINES.**SUMMARY:**

This bill allows entities that are not banks or credit unions to install cash dispensing machines in Connecticut. Cash dispensing machines are automated teller machines (ATMs) where the only banking transactions allowed are withdrawals, advances, transfers, and balance inquiries. They cannot take deposits. The bill sets licensing procedures, requires certain disclosures at the machines, and limits fees to \$1.50 per use. It lets the banking commissioner adopt regulations concerning the machines and specifies grounds for suspending, revoking, or refusing to renew a license.

The bill also expands out-of-state banks' and credit unions' authority to establish and use ATMs and point-of-sale (POS) terminals in Connecticut and includes them in requirements that apply to in-state institutions, clarifies the application of the statutory provision authorizing in-state institutions to establish ATMs in other states, and requires certain disclosures at ATM machines that surcharge other institutions' customers.

EFFECTIVE DATE: October 1, 2000

NONBANK CASH DISPENSING MACHINES***Licensing for Nonbank Cash Dispensing Machine***

Under the bill, a person or entity that is not a bank or credit union must apply for a license from the banking commissioner to establish a cash dispensing machine and pay a nonrefundable \$500 application fee. The application must contain:

1. the applicant's name and address and, for a firm or partnership, each member's name and address and, for a corporation, the name and address of each officer, director, authorized agent, and each owner of 10% or more of its stock;
- 1.
2. each location where a machine is to be established; and
3. other information the commissioner may require.

The commissioner must then investigate the facts and may issue the license if he finds that:

1. the applicant is in all respects properly qualified and of good character (for a firm or partnership, each member must meet this standard and, for a corporation, each officer, director, authorized agent, and owner of 10% or more of its stock must meet it); and
2. granting the license would not be against the public interest.

The applicant must pay the expenses of any investigation or examination for licensing, renewal, or enforcement actions.

In order to establish additional cash dispensing machines in the state, a licensee must file a notice with the commissioner and pay a \$50 fee for each machine. A licensee who wishes to change a machine's location must also give prior notice to the commissioner.

The licenses expire on June 30 annually. To renew a license, the licensee must file the renewal application with the commissioner and pay a \$50 fee by June 20. No fees can be abated if the licenses are surrendered, revoked, or suspended before they expire.

Fee Limit and Fee Disclosure

The bill limits cash dispensing machine fees to \$1.50 per use. It also prohibits charging fees unless the licensee clearly and conspicuously discloses the fee (1) on a sign posted on the machine or otherwise in clear view of someone facing it and (2) electronically during the course of the transaction in a way that lets the individual cancel the

transaction without incurring the fee.

Other Disclosures

The bill requires cash dispensing machines to clearly and conspicuously disclose the following information, on a sign posted on the machine or in clear sight of a consumer viewing the machine:

1. the name of the person or entity that established the machine;
2. a disclaimer stating that the entity or person is not a bank or credit union;
3. a name, address, and 24-hour toll-free phone number for receiving consumer inquiries or complaints about the machine; and
4. evidence of licensure under this bill in whatever form the commissioner prescribes.

Records

The bill requires each licensee to maintain, and to make available to the commissioner at his request in a form satisfactory to him, the books, records, and accounts that will allow him to verify each machine's daily activity. Each licensee must retain any record of a transaction for 90 days.

License Suspension, Revocation, or Nonrenewal

The bill allows the commissioner to suspend, revoke, or refuse to renew any license he issues under the bill on the same grounds he would use to deny an application, or if he finds the licensee has:

1. made any material misstatement in the application;
2. committed any fraud, engaged in any dishonest activity, or made any misrepresentation in connection with the business' operation;

3. demonstrated incompetence in connection with the business' operation; or
4. violated the bill or regulations adopted under it related to cash dispensing machines.

OUT-OF-STATE BANKS' AND CREDIT UNIONS' ATMS AND POS TERMINALS

The bill allows out-of-state banks and credit unions, like in-state banks and credit unions, generally to establish and use ATMs and POS terminals in Connecticut. Current law allows these entities to (1) establish ATMs and POS terminals here only if state or federal law authorizes them to accept deposits in the state or (2) use in-state institutions' ATMs or POS terminals if they have permission to use them from the in-state owner, use it on a transaction fee basis, and they do not accept deposits. The bill continues to let them use the in-state institutions' machines, but removes the prohibition on accepting deposits.

The bill includes the out-of-state banks and credit unions in the requirement that banks or credit unions that have established off-site ATMs must make them available for use by other institutions on a nondiscriminatory basis.

AUTHORITY TO ESTABLISH ATMS IN OTHER STATES

The bill also makes it clear that the statute authorizing in-state banks and credit unions to establish on-site and off-site ATMs outside Connecticut and use those of other banks outside the state on a transaction fee basis applies only to Connecticut-chartered institutions and not those that are federally chartered.

ATM SURCHARGE DISCLOSURES

The bill prohibits a bank or credit union from imposing an ATM surcharge on another bank's customer unless the ATM device clearly and conspicuously discloses the fee (1) on a sign posted on the machine, or otherwise in clear view of someone facing the machine, and (2) electronically during the course of the transaction in a way that lets the individual cancel the transaction without incurring the fee.

The bill specifies that this provision applies only to the extent that charging this fee is not otherwise prohibited.

BACKGROUND

Related Bill

sHB 5014, which was favorably reported by the Banks Committee, prohibits banks or credit unions that have ATMs in Connecticut from imposing surcharges on other institutions' customers.

Related Federal Law

The 1999 federal Gramm-Leach-Bliley Financial Modernization Act (PL 106-102), Title VII, modifies the federal Electronic Fund Transfer Act to require similar disclosures about surcharges at ATM machines.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute
Yea 12 Nay 5