

## **Texas Department of Banking Testimony**

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### **Testimony Of Catherine A. Ghiglieri, Banking Commissioner State Of Texas Before The House Interim Financial Institutions Committee Atm Operations**

*Date: October 21, 1998*

#### **INTRODUCTION**

Thank you for the opportunity to address this Committee regarding automated teller machines, or ATMs, operating in Texas. I will discuss the current laws relating to ATMs, the status of the Finance Commission study, the impact of the Year 2000 on ATM operations, related consumer issues, and my recommendations for legislative consideration.

#### **BACKGROUND**

##### **Laws Concerning ATMs In Texas:**

In Texas, laws related to ATMs are limited, and no statutory or regulatory restrictions exist on the amount of fees charged to users of ATMs. The Texas Constitution (Article XVI, Sec. 16(b)) restricts a state or national bank to establishing and operating ATMs in the county of its domicile, but this provision has long been preempted by federal law. (See Appendix for statutes and rules cited here.) Any person may own and operate an ATM anywhere in the state (Texas Finance Code Sec. 59.201). A depository institution may operate a proprietary ATM or it may permit other depository institutions to share the use its ATM, but if shared it must be shared on a non-discriminatory basis and usage charges imposed must be fair, reasonable, and non-discriminatory among the institutions (Texas Finance Code Sec. 59.201). Owners and operators of ATMs must take steps to evaluate and meet minimum standards for the safety of each ATM they own, and issuers of ATM cards must notify customers of basic safety precautions the customer should follow while utilizing an ATM (Texas Finance Code Secs. 59.301-59.310; 7 TAC Sec. 3.92).

Texas law requires notification to the customer before a fee is charged, although no mechanism for enforcement currently exists. The owner of an ATM that is connected to a shared network may impose a fee if it is disclosed at a time and in a manner that allows a user to avoid the transaction without incurring the transaction fee (Texas Finance Code Sec. 59.202). The Texas Racing Commission has adopted a rule requiring ATMs at racetracks to be licensed by the Racing Commission. In addition, a customer at a race track may make withdrawals only from a checking account, in amounts no more than \$200 per day. For each transaction at a racetrack ATM, a pre-disclosed statutory fee of \$1.00 must be withdrawn from the customer's account, in addition to any other fees authorized and imposed by the network and its financial institution participants, for deposit into the Texas State Treasury (Texas Racing Act, Sec. 11.04(e); 16 TAC Sec. 309.32).

##### **Attempts to Regulate ATM Fees:**

In the past year, almost every state legislature and the federal Congress considered some form of legislation that addressed ATM fees. Only two states actually passed legislation, but neither bill

prohibited or limited fees. Maryland passed a fee disclosure provision, similar to our law. Georgia adopted a bill that amended its antitrust law to authorize agreements among institutions not to charge a fee at shared ATMs.

Two states specifically limit fees. Mississippi caps fees at \$2.00 or four percent of the transaction amount, whichever is greater. Wyoming has a statutory limit of \$2.00 but the state banking commissioner has the authority to revise the limit by regulation, and did limit the fee to \$1.00 in 1995.

Two more states, Iowa and Connecticut, have legal opinions prohibiting ATM fees. Both of these states are currently in litigation over this issue, challenged by national banks and the Office of the Comptroller of the Currency.

In practice, ATM fees are rising. The federal General Accounting Office recently reported that the average fee has increased 50% to \$1.50. According to the United States Public Interest Research Group, the number of banks that charge fees has increased 45% from 1997-1998. The practice of charging fees differs on average between large national banks and small banks. Eighty-three percent of large banks charge a fee averaging \$1.35, while only 63% of small banks charge a fee, averaging \$1.16. ATMs at the State Fair of Texas this year charged \$3.25 per transaction.

#### **FINANCE COMMISSION STUDY**

In 1995, as part of the rewrite of the banking laws, the Finance Commission was required to perform a study of the availability, quality and pricing of financial services to consumers, agribusiness, and small business in Texas. Texas Finance Code Sec. 11.305. Because of the breadth of this mandate and the attendant costs, the Finance Commission decided to perform one portion of this study at a time.

In April, the Finance Commission contracted with Empirical Management Services, Inc. of Houston to conduct a study of the availability, quality and pricing of cash and depository services to consumers in Texas. The study is scheduled to be completed on November 30, 1998 and is based upon the results of random telephone surveys and face-to-face interviews with consumers in eight areas of the State. In addition, focus groups were held with consumers and financial institutions, and mail surveys were sent to financial service providers. The interview questions included items relating to the use of ATMs and the associated fees.

#### **IMPACT OF THE YEAR 2000 ON THE USE OF ATMS**

The Year 2000 (or Y2K) problem is the potential failure of information technology as a result of the year date changing from 1999 to 2000. This potential exists because of past practice of using two digits, not four, to represent the year in computer databases, software applications, and hardware chips. In the year 2000, outdated information technology will be unable to differentiate the year 2000 from the year 1900.

According to our review and the review of other bank regulatory agencies, banks are making substantial headway toward resolving their Y2K computer problems. The main impact of any Y2K computer glitches in the use of ATMs would be to prevent access to cash by the consumer

through the ATM. However, even if an ATM does not work, the consumer will still be able to go into the bank to withdraw money or cash a check. The Federal Reserve System Board of Governors anticipates that the worry about cash accessibility may cause some consumers to withdraw larger amounts of money from their accounts near the end of the year, and has ordered an approximate 25% increase in available cash to accommodate this possibility. If some ATMs are temporarily dysfunctional, we anticipate that the problems will be relatively short-lived.

### **CONSUMER COMPLAINTS REGARDING ATMs**

Shortly after the widespread use of ATM fees began, the Department received numerous consumer complaints regarding the amount of the charges. Because of required disclosures on bank-owned ATMs, these complaints have become almost non-existent. Many consumers have altered their ATM use to avoid the surcharges. Other ATM-related complaints include unauthorized withdrawals, erroneous receipts, inexact amount of cash disbursed, and lack of up-to-date balances presented on ATM screens. However, given the number of transactions conducted at ATMs, consumer complaints to our Department are extremely limited.

RECOMMENDATIONS FOR LEGISLATIVE CONSIDERATION I have several recommendations to improve ATM regulation in Texas, other than regulation of the fees charged. Unless an ATM is owned by a depository institution, no regulatory oversight of the operation of the ATM currently exists in Texas law, and regulatory oversight is needed in at least two circumstances.

First, no enforcement authority exists over non-bank owned ATMs to compel compliance with state law requiring disclosure of the surcharges prior to completion of the transaction. Many states do not permit ATMs unless they are owned and operated by financial institutions, but because Texas does not so restrict ATM ownership, there is a loophole in regulatory authority.

Second, the owner or operator of an ATM is not required to disclose its name, address, or a contact telephone number in case of a problem with the ATM transaction. If such a requirement was imposed by law, with suitable enforcement authority to compel compliance, a consumer would be able to contact the appropriate party if, for example, a non-bank owned ATM at a service station disburses \$10 instead of \$100 and the receipt states that \$100 was disbursed. Without such disclosure, neither the customer nor the service station employee knows whom to contact.

### **CONCLUSION:**

ATMs provide the consumer with a convenience and a service in Texas. Much has been done by the Texas Legislature to ensure the safety of the consumer at an ATM, and to ensure that a fee cannot be charged without giving the consumer a chance to reject the transaction request. Several areas of concern remain, however, regarding the non-bank owned ATMs, which could be remedied by legislation.

I would be happy to answer any questions that you may have.

### **APPENDIX**

TO THE TESTIMONY OF CATHERINE A. GHIGLIERI,

BANKING COMMISSIONER, STATE OF TEXAS,  
BEFORE THE HOUSE INTERIM FINANCIAL INSTITUTIONS COMMITTEE,  
ATM OPERATIONS

OCTOBER 21, 1998

The Texas Constitution, Article XVI, Sec. 16(b)

(b) If it finds that the convenience of the public will be served thereby, the Legislature may authorize State and national banks to establish and operate unmanned teller machines within the county or city of their domicile. Such machines may perform all banking functions. Banks which are domiciled within a city lying in two or more counties may be permitted to establish and operate unmanned teller machines within both the city and the county of their domicile. The Legislature shall provide that a bank shall have the right to share in the use of these teller machines, not situated at a banking house, which are located within the county or the city of the bank's domicile, on a reasonable, nondiscriminatory basis, consistent with anti-trust laws. Banks may share the use of such machines within the county or city of their domicile with savings and loan associations and credit unions which are domiciled in the same county or city.

Texas Finance Code Sec. 59.201

Electronic Terminals Authorized; Sharing of Electronic Terminal.

(a) A person may install, maintain, and operate one or more electronic terminals at any location in this state for the convenience of customers of depository institutions.

(b) Depository institutions may agree in writing to share in the use of an electronic terminal on a reasonable, nondiscriminatory basis and on the condition that a depository institution using an electronic terminal may be required to meet necessary and reasonable technical standards and to pay charges for the use of the electronic terminal. The standards or charges imposed must be reasonable, fair, equitable, and nondiscriminatory among the depository institutions. Any charges imposed:

(1) may not exceed an equitable proportion of the cost of establishing the electronic terminal, including provisions for amortization of development costs and capital expenditures over a reasonable period, and the cost of operation and maintenance of the electronic terminal, plus a reasonable return on those costs; and

(2) must be related to the services provided to the depository institution or its customers.

(c) This section does not apply to:

(1) an electronic terminal located at the domicile or home office or a branch of a depository institution; or

(2) the use by a person of an electronic terminal, regardless of location, solely to withdraw cash, make account balance inquiries, or make transfers between the person's accounts in the same depository institution.

Texas Finance Code Secs. 59.301-59.310

Sec. 59.301. Definitions. In this subchapter:

(1) "Access area" means a paved walkway or sidewalk that is within 50 feet of an unmanned teller machine. The term does not include a public right-of-way or any structure, sidewalk, facility, or appurtenance incidental to the right-of-way.

(2) "Access device" has the meaning assigned by Regulation E (12 C.F.R. Section 205.2), as amended, adopted under the Electronic Fund Transfer Act (15 U.S.C. Section 1693 et seq.), as amended.

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

(4) "Control" means the authority to determine how, when, and by whom an access area or defined parking area may be used, maintained, lighted, and landscaped.

(5) "Customer" means an individual to whom an access device is issued for personal, family, or household use.

(6) "Defined parking area" means the portion of a parking area open for unmanned teller machine customer parking that is contiguous to an access area, is regularly, principally, and lawfully used during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise for parking by customers using the machine, and is owned or leased by the owner or operator of the machine or owned or controlled by a person leasing the machine site to the owner or operator of the machine. The term does not include:

(A) a parking area that is physically closed or on which one or more conspicuous signs indicate that the area is closed; or

(B) a level of a multiple-level parking area other than the level considered by the operator of the unmanned teller machine to be the most directly accessible to a customer.

(7) "Financial institution" means a bank, savings association, credit union, or savings bank.

(8) "Operator" means the person primarily responsible for the operation of an unmanned teller machine.

(9) "Owner" means a person having the right to determine which financial institutions are permitted to use or participate in the use of an unmanned teller machine.

(10) "Unmanned teller machine" means a machine, other than a telephone, capable of being operated solely by a customer to communicate to a financial institution:

(A) a request to withdraw money from the customer's account directly or under a line of credit previously authorized by the financial institution for the customer;

(B) an instruction to deposit money in the customer's account with the financial institution;

(C) an instruction to transfer money between one or more accounts maintained by the customer with the financial institution;

(D) an instruction to apply money against an indebtedness of the customer to the financial institution; or

(E) a request for information concerning the balance of the account of the customer with the financial institution.

Sec. 59.302. Exception for Certain Unmanned Teller Machines. This subchapter does not apply to an unmanned teller machine:

(1) by which:

(A) a customer of a financial institution can authorize and effect the electronic transfer of money from the customer's account at the financial institution to a merchant's account at a financial institution in the county or municipality in which the terminal is located to obtain cash or to purchase, rent, or pay for goods or services; and

(B) the merchant can ascertain that the transaction has been completed and the money has been or will be transferred to the merchant's account at the merchant's financial institution in the county or municipality in which the terminal is located; or

(2) located:

(A) inside a building:

(i) unless the building is a freestanding installation existing solely to provide an enclosure for the machine; or

(ii) except to the extent a transaction can be conducted from outside the building; or

(B) in an area not controlled by the owner or operator of the machine.

Sec. 59.303. Applicability to Certain Persons Who Are Not Owners or Operators. (a) A person is not an owner or operator solely because the person's primary function is to provide for the exchange, transfer, or dissemination of electronic fund transfer data.

(b) A person whose primary function is to provide for the exchange, transfer, or dissemination of electronic fund transfer data and who is not an owner or operator is not liable to a customer or user of an unmanned teller machine for a claim arising out of or in connection with a use or attempted use of the machine.

Sec. 59.304. Construction of Subchapter. (a) This subchapter does not require the relocation or modification of an unmanned teller machine on the occurrence of a particular event or circumstance.

(b) A violation of this subchapter or a rule adopted under this subchapter is not negligence per se. Substantial compliance with this subchapter and each rule adopted under this subchapter is prima facie evidence that a person has provided adequate safety protection measures relating to an unmanned teller machine under this subchapter.

Sec. 59.305. Lighting Required. During the period beginning 30 minutes after sunset and ending 30 minutes before sunrise, lighting shall be provided for:

- (1) an unmanned teller machine;
- (2) the machine's access area and defined parking area; and
- (3) the exterior of the machine's enclosure, if the machine is located in an enclosure.

Sec. 59.306. Persons Required to Provide Lighting. (a) Except as provided by Subsection (b), the owner or operator shall provide the lighting required by this subchapter.

(b) A person who leases the site where an unmanned teller machine is located shall provide the lighting required by this subchapter if the person controls the access area or defined parking area for the machine and the owner or operator does not control the access area or defined parking area.

Sec. 59.307. Standards for Lighting. The lighting must be at least:

- (1) 10 candlefoot power at the face of the unmanned teller machine and extending in an unobstructed direction outward five feet;

(2) two candlefoot power within 50 feet from any unobstructed direction from the face of the machine, except as provided by Subdivision (3);

(3) if the machine is located within 10 feet of the corner of a building and is generally accessible from the adjacent side, two candlefoot power along the first 40 unobstructed feet of the adjacent side of the building; and

(4) two candlefoot power in the part of the defined parking area within 60 feet of the unmanned teller machine.

Sec. 59.308. Safety Evaluation. (a) An owner or operator shall in good faith evaluate the safety of each unmanned teller machine that the person owns or operates.

(b) In making the evaluation, the owner or operator shall consider:

(1) the extent to which the lighting for the machine complies with Section 59.307;

(2) the presence of obstructions, including landscaping and vegetation, in the area of the machine and the access area and defined parking area for the machine; and

(3) the incidence of violent crimes in the immediate neighborhood of the machine as shown by local law enforcement records and of which the owner or operator has actual knowledge.

Sec. 59.309. Notice of Safety Precautions. (a) An issuer of an access device shall give the customer a notice of basic safety precautions that the customer should follow while using an unmanned teller machine.

(b) The issuer shall personally deliver or mail the notice to each customer whose mailing address is in this state according to records for the account to which the access device relates. If the issuer furnishes an access device to more than one customer on the same account, the issuer is required to furnish a notice to only one of the customers.

(c) The issuer may furnish information under this section with other disclosures related to the access device, including an initial or periodic disclosure statement furnished under the Electronic Fund Transfer Act (15 U.S.C. Section 1693 et seq.).

Sec. 59.310. Enforcement and Rules.

(a) The finance commission and the Credit Union Commission shall enforce this subchapter and adopt rules to implement this subchapter.



(b) The rules must establish security requirements to be implemented by a financial institution for the operation of an unmanned teller machine. The rules may require the financial institution to install and maintain security devices in addition to those required by this subchapter to be operated in conjunction with the machine for the protection of customers using the machine, including:

(1) video surveillance equipment that is maintained in working order and operated continuously during the hours of operation of the machine; and

(2) adequate lighting around the premises that contain the machine.

(c) A financial institution that violates a rule adopted under this section is subject to a civil penalty of not less than \$50 or more than \$1,000 for each day of violation and each act of violation.

#### 7 TAC Sec. 3.92

Sec. 3.92. User Safety at Unmanned Teller Machines. (a) Definitions. Words and terms used in this subchapter that are defined in the Finance Code, Sec. 59.301, have the same meanings as defined in the Finance Code.

(b) Measurement of candle foot power. For purposes of measuring compliance with the Finance Code, Sec. 59.307, candle foot power should be determined under normal, dry weather conditions, without complicating factors such as fog, rain, snow, sand or dust storm, or other similar condition.

(c) Leased premises.

(1) Noncompliance by landlord. Pursuant to the Finance Code, Sec. 59.306, the landlord or owner of property is required to comply with the safety procedures of the Finance Code, Chapter 59, Subchapter D, if an access area or defined parking area for an unmanned teller machine is not controlled by the owner or operator of the unmanned teller machine. If an owner or operator of an unmanned teller machine on leased premises is unable to obtain compliance with safety procedures from the landlord or owner of the property, the owner or operator shall notify the landlord in writing of the requirements of the Finance Code, Chapter 59, Subchapter D, and of those provisions for which the landlord is in noncompliance.

(2) Enforcement. Noncompliance with safety procedures required by the Finance Code, Chapter 59, Subchapter D, by a landlord or owner of property after receipt of written notification from the owner or operator constitutes a violation of the Finance Code, Chapter 59, Subchapter D, which may be enforced by the Texas Attorney General.

(d) Safety evaluations.

(1) The owner or operator of an unmanned teller machine shall evaluate the safety of each machine on a basis no less frequently than annually.

(2) The safety evaluation shall consider at the least the factors identified in the Finance Code, Sec. 59.308.

(3) The owner or operator of the unmanned teller machine may provide the landlord or owner of the property with a copy of the safety evaluation if an access area or defined parking area for an unmanned teller machine is not controlled by the owner or operator of the machine.

(e) Notice.

(1) Existing accounts. No later than January 1, 1996, an issuer of access devices shall furnish its customers with a notice of basic safety precautions that each customer should employ while using an unmanned teller machine. The notice may be included as a statement stuffer with another mailing or may be delivered personally or mailed to each customer whose mailing address is in this state and who has been issued an access device.

(2) New access devices. An issuer of access devices shall furnish its customer with a notice of basic safety precautions at the time the initial disclosure of terms and conditions is provided to such customer.

(3) Annual notice. An issuer of access devices shall furnish its customers with a notice of basic safety precautions on a basis no less frequently than annually.

(4) Content. The notice of basic safety precautions required by this subsection must be provided in written form which can be retained by the customer and may include recommendations or advice regarding:

(A) security at walk-up unmanned teller machines;

(B) security at drive-up unmanned teller machines;

(C) protection of code or personal identification numbers;

(D) procedures for lost or stolen access devices;

(E) reaction to suspicious circumstances;

(F) safekeeping and disposition of unmanned teller machine receipts, such as the inadvisability of leaving an unmanned teller machine receipt near the unmanned teller machine;

(G) the inadvisability of surrendering information about the customer's access device over the telephone;

(H) safeguarding and protecting of the customer's access device, such as a recommendation that the customer treat the access device as if it was cash;

(I) protection against unmanned teller machine fraud, such as a recommendation that the customer compare unmanned teller machine receipts against the customer's monthly statement; and

(J) other recommendations that the issuer reasonably believes are appropriate to facilitate the security of its unmanned teller machine customers

(f) Video surveillance equipment. Video surveillance equipment is not required to be installed at all unmanned teller machines. The owner or operator must determine whether video surveillance or unconnected video surveillance equipment should be installed at a particular unmanned teller machine site, based on the safety evaluation required under the Finance Code, Sec. 59.308. If an owner or operator determines that video surveillance equipment should be installed, the owner or operator must provide for selecting, testing, operating, and maintaining appropriate equipment.

(g) Unmanned teller machines located in a bank vestibule. The provisions of the Finance Code, Chapter 59, Subchapter D, and this section are applicable to an unmanned teller machine located in a bank vestibule if there is 24 hour access to the vestibule from outside the building.

(h) Certification of Compliance. The security officer of each depository shall certify compliance with the Finance Code, Chapter 59, Subchapter D, and this section on a basis no less frequently than annually.

#### Texas Finance Code Sec. 59.202

Sec. 59.202. User Fee for Shared Electronic Terminal. (a) The owner of an electronic terminal that is located in this state and that is connected to a shared network may impose a fee for the use of that terminal if imposition of the fee is disclosed at a time and in a manner that allows a user to avoid the transaction without incurring the transaction fee.

(b) An agreement to share an electronic terminal may not:

(1) limit the right of the owner of an electronic terminal to charge a fee described by Subsection (a) as allowed by the law of this state or the United States;

(2) require the owner to limit or waive its rights or obligations under this section; or

(3) otherwise discriminate in any manner against the owner as a result of the owner's charging of a fee authorized under this section.

(c) In this section:

(1) "Electronic fund transfer" means any transfer of money, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal and orders, instructs, or authorizes a financial institution to debit or credit an account. The term includes a point-of-sale transfer, an unmanned teller machine transaction, and a cash dispensing machine transaction.

(2) "Electronic terminal" means an electronic device, other than a telephone, through which a consumer may initiate an electronic fund transfer. The term includes a point-of-sale terminal, an unmanned teller machine, and a cash dispensing machine.

(3) "Financial institution" means a state, national, or private bank, savings bank, savings association, thrift company, or credit union.

(4) "Shared network" means an electronic information communication and processing facility used by two or more owners of electronic terminals to receive, transmit, or retransmit electronic impulses or other electronic indicia of transactions, originating at electronic terminals, to financial institutions or to other transmission facilities for the purpose of:

(A) the withdrawal by a customer of money from the customer's account, including a withdrawal under a line of credit previously authorized by a financial institution for the customer;

(B) the deposit of money by a customer in the customer's account with a financial institution;

(C) the transfer of money by a customer between one or more accounts maintained by the customer with a financial institution, including the application of money against an indebtedness of the customer to the financial institution; or

(D) a request for information by a customer concerning the balance of the customer's account with a financial institution.

Title 6, Tex. Rev. Civ. Stat., art. 179e, Texas Racing Act, Sec. 11.04(e)

(e) An association that allows a machine in an enclosure as provided by Subsection (c) shall collect a fee of \$1 for each transaction under Subsection (c). The commission shall adopt rules providing for collection, reporting, and auditing of the transaction fee. The association shall forward the fee to the commission. The commission shall deposit the fee to the credit of the general revenue fund.

16 TAC Sec. 309.32

## Sec. 309.32 Automatic Banking Machines

(a) **Machines Permitted.** An association may permit the placement of an automatic banking machine on association grounds only in accordance with this section. For purposes of this section, "automatic banking machine" means an electronic terminal, as that term is defined by Regulation E, Electronic Fund Transfers, 12 CFR 205.

(b) **Vendor.**

(1) If an association contracts with a vendor to provide an automatic banking machine, the contract is subject to inspection by the commission. The contract may not contain any provision that violates or is inconsistent with the Texas Racing Act or these rules. The association shall make the contract available to the commission on request.

(2) A vendor of automatic banking machines for pari-mutuel racetracks must be licensed by the commission. If the vendor is not an individual, a designated representative of the vendor selected by the executive secretary officer must be licensed.

(c) **Configuration.** An automatic banking machine placed on association grounds must be configured with the following restrictions:

(1) A customer using the machine may withdraw funds only from his or her checking account at a bank or other financial institution. A customer may not use the machine to withdraw funds from a savings account.

(2) A customer may withdraw no more than \$200 per day per account. For purposes of this paragraph, a "day" is the 24-hour period beginning at 12:00 midnight.

(3) For each transaction at a machine, a statutory fee of \$1.00 must be withdrawn from the customer's account in addition to the amount delivered to the customer and any other fees authorized and imposed by the bank or other financial institution, by the association, or by the vendor.

(4) Before the customer authorizes the transaction, the machine must display a screen that notifies the customer of the statutory fee and permits the customer to cancel the transaction. The notice must state the following or its equivalent: **UNDER TEXAS RACING ACT, Sec. 11.04(e), A \$1 FEE MUST BE COLLECTED ON EACH TRANSACTION AT THIS MACHINE FOR DEPOSIT INTO THE TEXAS STATE TREASURY.**

(d) **Collection and Payment of Fee.**

(1) The association or vendor, if applicable, shall collect the statutory fee periodically and pay the total amount of the statutory fees collected during the preceding month to the commission not later than a date set by the executive secretary. Payment of the statutory fee must be made in accordance with procedures established by the executive secretary.

(2) Failure to collect and pay the proper amounts for the statutory fee may result in disciplinary action against the association or vendor.

(e) Records and Audit.

(1) The association or vendor, if applicable, shall maintain complete records regarding all transactions conducted at each machine placed by the association or vendor on association grounds. The records must be maintained for at least three years after the date of the transaction.

(2) The commission may audit the records at any time to ensure the proper collection and payment of the statutory fees.

(f) Compliance with Other Laws. A machine placed on association grounds under this section must comply with all other applicable state and federal statutes and regulations. This section may not be construed to supersede any other state or federal statutes or regulations applicable to automatic banking machines.

Finance Commission Study, Texas Finance Code Sec. 11.305

Sec. 11.305. Research. (a) The finance commission shall conduct research on:

(1) the availability, quality, and prices of financial services, including lending and depository services, offered in this state to agricultural businesses, small businesses, and individual consumers in this state; and

(2) the practices of business entities in this state that provide financial services to agricultural businesses, small businesses, and individual consumers in this state.

(b) The finance commission may:

(1) apply for and receive public and private grants and gifts to conduct the research authorized by this section; and

(2) contract with public and private entities to carry out studies and analyses under this section.

(c) Not later than December 1 of each year, the finance commission shall provide to the legislature a report detailing its findings and making recommendations to improve the availability, quality, and prices of financial services.