

prior to the date a submission is due. Fees shall be reduced by twenty percent (20%) of the amount due for all Affected Employers submitting plans not later than 30 days prior to the date a submission is due. Fee reductions shall be available only in the year when the Employer is required to file a plan or report pursuant to 17 NYCRR Part 38.

D. Fees shall be in the form of a company check, bank check, money order, or other form of payment acceptable to the Local Administrative Agency made payable to the Nassau County Treasurer.

Section 9. Auditing and Recordkeeping. In accordance with the provisions of 17 NYCRR Part 38.10:

A. Affected Employers shall provide access to the Local Administrative Agency for auditing to verify compliance with the provisions of this Chapter.

B. Affected Employers shall facilitate the audit functions by maintaining copies of relevant documents.

Section 10. Penalties.

A. The Local Administrative Agency shall send a notice of violation of any provision of this chapter by registered, certified or other form of mail documenting receipt to the Affected Employer. Such notice shall specify the nature of the violation and the fine due.

B. Failure of an Affected Employer to comply with the requirements set forth in the rules of the ECO Program as specified in NYCRR Part 38.11(a) shall constitute a violation of such rules. The civil penalty for each violation shall be fifty cents (50¢) per employee per day for each Affected Worksite, not to exceed five hundred dollars (\$500.00) per day for each Affected Worksite.

C. Failure of an Affected Employer to register pursuant to 17 NYCRR Part 38.3(b) shall constitute a violation of such rules. The penalty for such violation shall be fifty cents (50¢) per

employee per day for each Affected Worksite, not to exceed five hundred ollars (\$500.00) per day for each Affected Worksite.

Section 11. Employer Petitions.

A. In accordance with the provisions of 17 NYCRR Part 38.12, Affected Employers shall have the opportunity to file a petition appealing a Local Administrative Agency's decision pertaining to the following issues:

1) The rejection of a Compliance Plan for failure to Convincingly Demonstrate that the Target CPO will be achieved.

2) The rejection of a Maintenance Report for failure to Convincingly Demonstrate that the Target APO will be maintained.

3) The imposition of a penalty in accordance with the provisions of 17 NYCRR Part 38.

B. Petitions to appeal by Affected Employers shall be reviewed by a three member Board appointed by the County Executive subject to confirmation by the Board of Supervisors.

1) All appointees to membership to the Board shall have a term of three years, except that of those first appointed, one member shall be appointed for a term of three (3) years, one member shall be appointed for a term of two (2) years and one member shall be appointed for a term of one (1) year.

2) Board members shall serve without compensation but shall be entitled to receive all reasonable expenses actually incurred in the performance of their duties.

3) The Board shall be the final administrative authority for the enforcement and administration of this Title.

C. The procedure for appeal to the Board shall be as follows:

1) An Affected Employer wishing to file a petition of

appeal shall submit such request to the Board within fifteen (15) days of receipt of the notification to be appealed from.

2) Notice of hearing shall be sent by registered or certified mail and shall state the date and place of hearing. The Affected Employer shall be heard either in person or by counsel and may offer evidence on its behalf. A stenographic record of the hearing shall be taken. The Board shall make a written report of findings and issue an order in determination of the question presented for appeal. Both the Affected Employer and the Local Administrative Agency shall be notified of such order.

3) For the purpose of this Title, the Board may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of the appeal, pursuant to section twenty two hundred thirteen of the County Government Law of Nassau County.

Section 12. Rules and Regulations. The Local Administrative Agency is hereby authorized, empowered and directed to promulgate and issue such rules and regulations as the Local Administrative Agency may deem necessary to implement and carry out this Title and 17 NYCRR Part 38.

Section 13. SEQRA Findings. The Board of Supervisors as lead agency has determined that in conformance with the SEQRA findings of the New York State Department of Transportation, the proposed action described herein is an unlisted action and will not have a significant effect on the environment, and a Draft Environmental Impact Statement will not be prepared.

Section 14. Severability. If any clause, sentence, paragraph, subdivision, section or part of this Title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this

Title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

(Title 22 added by Local Law No. 3-1994, in effect May 23, 1994.)

TITLE 23

AUTOMATED TELLER MACHINE SECURITY PROTECTION ACT FOR BANK CUSTOMERS

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

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 and 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.

II. "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 plane 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.

C. Any bank found to be in willful violation of Section 4 of this Title shall be liable for a civil penalty of not more than Five Hundred Dollars (\$500.00) for each automated teller machine for which a report has not been filed. Any bank which makes a material false statement or material omission in any report filed pursuant to Section 4(B) of this Title shall be liable for a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each report.

D. A proceeding to recover any civil penalty authorized to be imposed pursuant to this law shall be commenced by the service of a notice of violation which shall be returnable to the Commissioner of the Office of Consumer Affairs, who, after due notice and an opportunity for a hearing, shall be authorized to impose the civil penalties prescribed by this Title.

Section 6. Enforcement.

The Office of Consumer Affairs shall be authorized to enforce this Title.

Section 7. Exemption.

The provisions of this Title shall not apply to any unenclosed automated teller machine located in any building, structure, or space whose primary purpose or function is unrelated to banking activities, including, but not limited to supermarkets, airports, and school buildings, provided that such automated teller machine shall be available for use only during the regular hours of operation of the building, structure, or space in which such machine is located.

Section 8. Applicability.

This Title shall apply to actions occurring on or after the effective date of this Title.

Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Title or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or

unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Title, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

(Title 23 added by Local Law No. 9-1994, in effect January 1, 1995.)

TITLE 24

NASSAU COUNTY HOTEL AND MOTEL OCCUPANCY TAX

- Section
1. Legislative Intent
 2. Definitions
 3. Imposition of Hotel and Motel Occupancy Tax
 4. Contract with Tourism Promotion Agency
 5. Disposition of Tax Revenues
 6. Exemptions
 7. Judicial Review
 8. Severability

Section 1. Legislative Intent. Chapter 511 of the Laws of 1994 authorized and empowered the County of Nassau to impose a hotel and motel occupancy tax in Nassau County not to exceed three-fourths of one percent of the per diem rental rate for each room. The revenues resulting from the imposition of the tax shall be used to promote tourism and convention business in Nassau County as well as to provide for care, maintenance and interpretation for the general public of certain structures and areas under the jurisdiction of the Nassau County Department of Recreation and Parks and for operating or program support of non-profit museums and cultural organizations in Nassau County. The Board of Supervisors finds it to be in the best interest of the County of Nassau to impose the hotel and motel occupancy tax for these purposes.