

1. CONTIGUOUS TO AN ACCESS AREA WITH RESPECT TO AN AUTOMATED TELLER MACHINE;

2. REGULARLY, PRINCIPALLY, AND LAWFULLY USED FOR PARKING BY USERS OF THE AUTOMATED TELLER MACHINE WHILE CONDUCTING AUTOMATED TELLER MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS; AND

3. OWNED OR CONTROLLED BY THE OPERATOR OF THE AUTOMATED TELLER MACHINE OR BY THE PARTY LEASING THE AUTOMATED TELLER MACHINE SITE TO THE OPERATOR.

(II) "DEFINED PARKING AREA" INCLUDES ONLY THE SINGLE PARKING LEVEL OF A MULTIPLE LEVEL PARKING AREA DEEMED BY THE OPERATOR OF THE AUTOMATED TELLER MACHINE TO BE THE MOST DIRECTLY ACCESSIBLE TO USERS OF THE AUTOMATED TELLER MACHINE IF THE PARKING AREA OTHERWISE SATISFIES THE CONDITIONS CONTAINED IN ITEM (I) OF THIS PARAGRAPH.

(III) "DEFINED PARKING AREA" DOES NOT INCLUDE A PARKING AREA WHICH:

1. IS NOT REGULARLY USED FOR PARKING BY USERS OF THE AUTOMATED TELLER MACHINE WHO ARE CONDUCTING AUTOMATED TELLER MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS; OR

2. IS PHYSICALLY CLOSED TO ACCESS OR IS MARKED BY CONSPICUOUS SIGNS INDICATING THAT IT IS CLOSED.

(9) "FINANCIAL INSTITUTION" HAS THE MEANING STATED IN § 1-101 OF THIS TITLE.

(10) "HOURS OF DARKNESS" MEANS THE PERIOD THAT BEGINS 30 MINUTES AFTER SUNSET AND ENDS 30 MINUTES BEFORE SUNRISE.

(11) "OPERATOR" MEANS A FINANCIAL INSTITUTION OR OTHER PERSON THAT OPERATES AN AUTOMATED TELLER MACHINE.

(B) (1) (I) THIS SECTION DOES NOT APPLY TO ANY PERSON:

1. WHOSE PRIMARY FUNCTION IS TO PROVIDE FOR THE EXCHANGE, TRANSFER, OR DISSEMINATION OF ELECTRONIC FUND TRANSFER DATA; AND

2. THAT IS NOT OTHERWISE AN OPERATOR OR PERSON WHO CONTROLS AN ACCESS AREA OR DESIGNATED PARKING AREA.

(II) A PERSON DESCRIBED IN ITEM (I) OF THIS PARAGRAPH SHALL HAVE NO LIABILITY TO A CUSTOMER OR USER OF AN AUTOMATED TELLER MACHINE FOR ANY CLAIM RELATING TO:

1. ANY PROVISION OF THIS SECTION; OR