

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 SUBSECTION (C), (D), OR (E) OF this section; or

2. The use or attempted use of an automated teller machine.

(2) [This section does] SUBSECTION (C), (D), OR (E) OF THIS SECTION DO not apply to an automated teller machine which:

(i) Is located inside a building:

1. Unless the building is a freestanding installation which exists solely to provide an enclosure for the automated teller machine; or

2. Except to the extent that a transaction can be conducted from outside the building; or

(ii) Is located in any area, including any access area, building, enclosed space, or parking area, which is not controlled by the operator.

(c) (1) An operator of an automated teller machine shall adopt procedures for evaluating the safety of the location of the automated teller machine before it is installed.

(2) The procedures shall include a consideration of:

(i) The extent to which the lighting for the automated teller machine complies or will comply with the standards described in this section; and

(ii) The presence of landscaping, vegetation, or other obstructions in the area of the automated teller machine, the access area, and the defined parking area.

(3) (i) The operator of an automated teller machine installed prior to January 1, 1995 shall adopt procedures for evaluating the safety of the location of the existing automated teller machine.

(ii) The procedures adopted under subparagraph (i) of this paragraph shall include a consideration of the facts identified in paragraph (2) of this subsection to the extent appropriate to existing locations.

(iii) This subsection does not impose a duty to relocate an automated teller machine or modify the landscaping, vegetation, or other obstructions in the area of an automated teller machine, access area, or defined parking area for an automated teller machine installed prior to January 1, 1995.