

## Review of Tennessee ATM Laws and Regulations

<u>Title, Chapter, Part</u>	<u>Citation</u>	<u>Summary</u>	<u>Language</u>	<u>History</u>
<b><u>Tennessee's ATM Law (45-16-101 et. seq.)</u></b>				
<ul style="list-style-type: none"> <li>• Title 45. Banks and Financial Institutions</li> <li>• Chapter 16. Automated Teller Machines</li> </ul>	§ 45-16-101(1). Definitions	An electronic terminal includes an ATM.	(1) "Electronic terminal" means an electronic device through which a person may initiate an electronic fund transfer to access the person's deposit, share, or other accounts or credit facility, and includes, but is not limited to, automated teller machines, cash dispensing machines, point of sale terminals, or other cash, debit, stored value, script, or cash equivalent device;...	None
<ul style="list-style-type: none"> <li>• Title 45. Banks and Financial Institutions</li> <li>• Chapter 16. Automated Teller Machines</li> </ul>	§ 45-16-102. Agreements to share electronic terminals, participate in shared networks	Sharing ATMs does not limit the right or ability to charge a usage fee.	An agreement to share electronic terminals or participate in a shared electronic network shall not prohibit, limit, or restrict the right of a financial institution to charge a usage fee for use of its electronic terminals, require a financial institution to limit or waive its rights or obligations under this section, or require the financial institution to otherwise distinguish or discriminate on classes or types of transactions. This section shall not limit or restrict any other fee that a financial institution may impose on its customers pursuant to any deposit, lending, or other written agreement that it has with a customer, or to any other transaction where a customer has no written agreement, but which a customer has notice of the fee.	None
<ul style="list-style-type: none"> <li>• Title 45. Banks and Financial Institutions</li> <li>• Chapter 16. Automated Teller Machines</li> </ul>	§45-16-103. Usage fees	An ATM can charge a fee on a foreign card, so long as customer can cancel transaction first.	A financial institution may impose and collect a usage fee on a foreign access card; provided, that the usage fee may only be charged if the imposition of the fee is disclosed at a time and in a manner that allows the user to terminate or cancel the transaction without incurring the usage fee.	None
<ul style="list-style-type: none"> <li>• Title 45. Banks and Financial Institutions</li> <li>• Chapter 16. Automated Teller Machines</li> </ul>	§ 45-16-104. Rules and regulations	The commissioner may promulgate rules.	The commissioner of financial institutions is authorized to promulgate rules and regulations to effectuate the purposes of this chapter.	None

Laws that Cover ATMs

<u>Title, Chapter, Part</u>	<u>Citation</u>	<u>Summary</u>	<u>Language</u>	<u>History</u>
<ul style="list-style-type: none"> <li>• Title 45. Banks and Financial Institutions</li> <li>• Chapter 2. Banking Institutions</li> <li>• Part 6. General Powers of Banks</li> </ul>	45-2-619(2). Definitions	Electronic cash dispensing service includes ATMs. Only a depository institution may own or operate ATMs.	<p>...(2) "Electronic cash dispensing device" means an electronic device other than a telephone operated by a consumer, through which a consumer may obtain cash by means of initiating an electronic fund transfer instruction to the consumer's depository institution to debit the consumer's deposit account. For purposes of this part, "electronic cash dispensing device" includes, but is not limited to, automated teller machines.</p> <p>(b) Only a depository institution, or an affiliate of the depository institution, may own, establish, alone or in combination with other persons, operate one (1) or more electronic cash dispensing devices located or to be located in this state. No person shall be deemed to own, establish, or operate an electronic cash dispensing device solely because the device is located on the premises of the person and the person received bona fide lease or rental payments, in the form of transaction fees or periodic payments, from the depository institution or wholly-owned subsidiary of the depository institution that owns, established and operates the device....</p>	Under § 45-2-619(b), any entity that is not a "depository institution" as defined in § 45-2-619(a)(1) may not, by itself, own, establish or operate an "electronic cash dispensing device" as defined in § 45-2-619(a)(2), but may only do so in combination with a "depository institution"; and, the term "electronic cash dispensing device" includes an automated teller machine. Op. Atty. Gen. No. 96-056, March 28, 1996.

Exemption Laws

<ul style="list-style-type: none"> <li>• Title 9. Public Finances</li> <li>• Chapter 4. State Funds, State Budget and Appropriations</li> <li>• Part 1. Definitions</li> </ul>	<p>§ 9-4-107(a)(2). State depository</p>	<p>An ATM is not a State Depository.</p>	<p>(a)(1) “State depository” means:</p> <p>(A) Any savings bank (savings institution), or any bank chartered by the state of Tennessee;</p> <p>(B) Any national bank, or federal savings institution that has its main office located in this state; or</p> <p>(C) Any national or state bank, or any federal or state savings institution that has its main office located outside this state and that maintains one (1) or more branches in this state which are authorized to accept federally insured deposits;</p> <p>that has been designated by the state treasurer, the governor and the commissioner of finance and administration as a state depository.</p> <p><b>(2) Notwithstanding any other provision of the law to the contrary, an automated teller machine or such other similar type receptacle or device shall not be considered a branch for purposes of this section. ...</b></p>	<p>None</p>
<ul style="list-style-type: none"> <li>• Title 47. Commercial Instruments and Transactions</li> <li>• Chapter 18. Consumer Protection</li> <li>• Part 1. Consumer Protection Act of 1977</li> </ul>	<p>§47-18-127(e). Gift certificates</p>	<p>A gift certificate is not a ATM card usable at multiple locations.</p>	<p>... (e) A gift certificate does not include a prepaid calling card used to make telephone calls or a prepaid card usable at multiple, unaffiliated merchants or at automated teller machines, or both.</p>	<p>None</p>

Exemption Laws

<ul style="list-style-type: none"> <li>• Title 9. Public Finances</li> <li>• Chapter 4. State Funds, State Budget and Appropriations</li> <li>• Part 5. Collateral Pool for Public Deposits</li> </ul>	<p>§ 9-4-502(17). Definitions</p>	<p>An ATM is not a Public Depository</p>	<p>...(17) “Public depository” means:</p> <p>(A) Any savings and loan association, or savings bank (collectively referred to as savings institutions), or any bank chartered by the state of Tennessee;</p> <p>(B) Any national bank or federal savings institution that has its main office located in this state; or</p> <p>(C) Any national or state bank, or any federal or state savings institution that has its main office located outside this state and that maintains one (1) or more branches in this state which are authorized to accept federally insured deposits; and</p> <p><b>which has been appropriately designated to hold public deposits by a public depositor. Notwithstanding any other provision of the law to the contrary, an automated teller machine or such other similar type receptacle or device shall not be considered a branch for purposes of this subsection.</b> A bank or savings institution located outside this state desiring to be designated as a qualified public depository must agree that this chapter shall govern in determining its rights and responsibilities as a qualified public depository, and must agree to be subject to the jurisdiction of the courts of this state, or of the courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter; ...</p>	<p>None</p>
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Exemption Laws

<ul style="list-style-type: none"> <li>• Title 45. Banks and Financial Institutions</li> <li>• Chapter 4. Credit Unions</li> <li>• Part 19. Miscellaneous Provision</li> </ul>	<p>45-4-1904(f). Foreign credit unions</p>	<p>Foreign Credit Unions may connect to an electronic network, which includes ATMs.</p> <p>For this section, ATMs may accept withdrawals, give loan advances, and provide member account information. ATMs may not solicit new members.</p>	<p>...(f)(1) A foreign credit union may participate in a shared service center network that is operated from inside or outside of this state and which shared service center, referred to as “center” in this subsection (f), uses an electronic network to provide credit union services to members of credit unions, who are participants in the network, and at which center the services provided are performed by automated teller machines and/or similar electronic communications between the center and the participating credit union. Credit unions whose members use such centers shall not be deemed to be maintaining offices in Tennessee and shall not be subject to any of the foregoing sections applicable to the opening and maintaining of offices by foreign credit unions.</p> <p>(2)(A) For purposes of this section, “services performed by automated teller machines and/or similar electronic communications” means only the following activities:</p> <p>(i) Access to and withdrawals from a member's share and other accounts through the acceptance of share drafts, debit approvals and transfers between accounts;</p> <p>(ii) Loan advances pursuant to any lending agreement between the member using the service center and the member's home credit union through any credit access device including drafts, credit cards or otherwise, and including authorizations to increase lines of credit; provided, that the service center may not make a credit determination or create a new loan; and</p> <p>(iii) May provide access to member account information, account balance inquiries, transfers between accounts, initiation of payments from existing accounts to existing loans;</p> <p>(B) The service center may not, for any foreign credit union, accept loan payments directly, open member accounts, solicit new members or otherwise act as a branch....</p>	<p>None</p>
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Exemption Laws

<ul style="list-style-type: none"> <li>• Title 47. Commercial Instruments and Transactions</li> <li>• Chapter 18. Consumer Protection</li> <li>• Part 21. Identity Theft Deterrence</li> </ul>	<p>§ 47-18-2108(n)(3). Consumer report security freeze request</p>	<p>ATMs are excluded from the Consumer report securities freeze request requirement, but if a freeze is in place, the ATM must abide by the Freeze.</p>	<p>(n) The following entities are not subject to the requirements of this section; provided, however, that each such entity shall be subject to any security freeze placed on a consumer report by a consumer reporting agency from which it obtains information: ...</p> <p>(3) A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a Tennessee consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution; and</p>	<p>None</p>
<ul style="list-style-type: none"> <li>• Title 67. Taxes and Licenses</li> <li>• Chapter 6. Sales and Use Taxes</li> <li>• Part 3. Exemptions</li> </ul>	<p>§ 67-6-329(c)(2). Specific exemptions</p>	<p>ATMs Exempt from sales and Use tax.</p>	<p>...(c) Charges for the following services are exempt from the tax imposed by this chapter:</p> <p>...</p> <p>(2) Automatic teller machine (ATM) service. The seller of the ATM service shall be deemed the user and consumer of telecommunication services necessary to deliver the ATM service; and...</p>	

Laws that Tangentially Cover ATMs				
<ul style="list-style-type: none"> <li>• Tennessee Rules and Regulations Currentness</li> <li>• 0180. Department of Financial Institutions</li> <li>• Chapter 0180-07. Rules of Practice: Applications, Instructions, Forms, Reports of State Banks, and Schedule of Application Fees for State Banks, Bidcos, Savings Banks and Trust Companies</li> </ul>	0180-07-.08.(1)(r) FEES.	Application Fee to Establish an ATM is \$100.	(1) Following are the fees charged for each particular type of transaction:  ...  (r) Application by a state-chartered bank or a state-chartered savings bank to establish an automated teller machine at a location other than a main office or branch location - \$100.0 ...	None