



PRESIDENT SIGNS H.R. 4367 ELIMINATING THE REQUIREMENT OF EXTERIOR FEE DISCLOSURE SIGNAGE ON ATM'S

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On December 20, 2012, President Obama signed H.R. Bill 4367, which became effective upon his signing of the bill, and which eliminates the mandatory requirement that signage be placed on the exterior of Automated Teller Machines (“ATMs”), informing ATM users that they will be charged a transaction fee for using the institution’s ATM. This action was taken in response to many lawsuits filed against banks alleging that their ATM fee disclosures were either missing or inadequate. Following the effective date, new lawsuits may not be filed against banks or ATM owners for failure to display ATM fees on the outside of the machine for specific instances that occur after the effective date. However, the law will have no effect on lawsuits that had already been filed prior to the effective date or lawsuits filed after the effective date but alleging that the ATM transaction occurred before the effective date. Therefore, we expect that Plaintiff’s may have initiated a new wave of lawsuits prior to the effective date while the practice was still permissible.

While the requirement of signage on or near an ATM informing customers of an ATM fee is no longer required, financial institutions are still required to notify customers that an ATM transaction fee will be imposed and the amount of such fee. However, this notice must be given after the initiation of the transaction but *before* the customer completes the transaction. This notice can be made on the ATM screen, or given via a paper notice that the machine would issue to the customer before completing the transaction. We expect this change to not add much, if any, cost to financial institutions because many ATM’s already provide on-screen fee disclosure prior to completing a transaction.

This change in the law could prove to be advantageous to the financial industry by preventing the filing of complaints against financial institutions and ATM owners because of missing exterior ATM fee notice signage.

Financial institutions and ATM owners should evaluate their ATMs to verify that they are compliant with the new law. [Shumaker Williams, P.C.](#) welcomes calls from current and prospective clients to confidentially discuss this new law and to advise them on a defensive strategy in the event a lawsuit has been filed. Please call [Evan C. Pappas](#), Esquire, or [Kenneth J. McDermott](#), Esquire, at 717-763-1121 or [Harry Levy](#), Esquire, at 410-825-5223 for more information or to schedule a confidential consultation.

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