

PRESERVATION OF PERSONAL PRIVACY (EXCERPT)
Act 378 of 1988

***** 445.1713.amended THIS AMENDED SECTION IS EFFECTIVE JULY 31, 2016 *****

445.1713.amended Exceptions.

Sec. 3. A record or information described in section 2 may be disclosed only in 1 or more of the following circumstances:

- (a) With the written permission of the customer.
- (b) Pursuant to a warrant or court order.
- (c) To the extent reasonably necessary to collect payment for the materials or the rental of the materials, if the customer has received written notice that the payment is due and has failed to pay or arrange for payment within a reasonable time after notice.
- (d) To any person if the disclosure is incident to the ordinary course of business of the person that is disclosing the record or information. This subdivision only applies to a record or information that is created or obtained after the effective date of the amendatory act that added this subdivision.
- (e) If the disclosure is for the purpose of marketing goods and services to customers. All of the following apply for purposes of this subdivision:
 - (i) The person that is disclosing the information shall inform the customer by written notice that the customer may remove his or her name at any time and shall specify the manner or manners by which the customer may remove his or her name. Unless the person's method of communication with customers is by electronic means, the written notice shall include a nonelectronic method that the customer may use to opt out of disclosure. Any of the following methods of notice satisfy the written notice requirements of this subparagraph:
 - (A) Written notice included in or with any materials sold, rented, or lent to the customer under section 2.
 - (B) Written notice provided to the customer at the time he or she orders any of the materials described in section 2 or otherwise provided to the customer in connection with the transaction between the person and customer for the sale, rental, or loan of the materials to the customer.
 - (C) Notice that is included and clearly and conspicuously disclosed in an online privacy policy or similar communication that is posted on the Internet, is maintained by the person that is disclosing the information, and is available to customers or the general public.
 - (ii) A customer may provide notice to the person that is disclosing information under this subdivision that the customer does not want his or her name disclosed.
 - (iii) Beginning 30 days after the person receives the customer's notice, the person shall not knowingly disclose the customer's name to any other person for marketing goods and services.
- (f) Pursuant to a search warrant issued by a state or federal court or a grand jury subpoena.

History: 1988, Act 378, Eff. Mar. 30, 1989;—Am. 2016, Act 92, Eff. July 31, 2016.

Compiler's note: Enacting section 2 of Act 92 of 2016 provides:

"Enacting section 2. This amendatory act is curative and intended to clarify that the prohibitions on disclosing information contained in 1988 PA 378, MCL 445.1711 to 445.1715, do not prohibit disclosing information if it is incident to the ordinary course of business of the person disclosing the information, including marketing goods and services to customers or potential customers when written notice is provided, and that a civil action for a violation of those prohibitions may only be brought by a customer who has suffered actual damages as a result of the violation."

Popular name: Video Rental Privacy Act