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## BILL ANALYSIS



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Senate Bill 984 (as introduced 5-8-18)  
Sponsor: Senator Dave Hildenbrand  
Committee: Commerce

Date Completed: 5-22-18

**CONTENT**

**The bill would amend an enacting section of Public Act 92 of 2016, which amended the video rental privacy law, to delete a provision that a civil action for damages under the law may be brought only by a customer who suffered actual damages, and to add language regarding the right to monetary recovery.**

The video rental privacy law, as amended by Public Act 92 of 2016, prohibits a person subject to the law from knowingly disclosing information that personally identifies a customer as having purchased, leased, rented, or borrowed videos, sound recordings, or books or other written material. Public Act 92 also revised provisions under which disclosure is allowed under certain circumstances. In addition, the video rental privacy law, as amended, allows a customer who suffers actual damages as a result of a violation of the law to bring a civil action. (Formerly, a customer could bring a civil action against a person who violated the law and could recover both of the following: a) actual damages, including damages for emotional distress, or \$5,000, whichever was greater, and b) costs and reasonable attorney fees.)

Enacting Section 2 of Public Act 92 states, "This amendatory act is curative and intended to clarify that the prohibitions on disclosing information contained in 1988 PA 378 [the video rental privacy law]...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."

The bill would eliminate this language. Instead, Enacting Section 2 would state, "This retroactive, curative, and clarifying amendatory act is intended to express the original intent of the legislature in enacting 1988 PA 378...in response to recent opinions of the federal courts. 1988 PA 378 was not intended to and did not confer a substantive right to monetary recovery absent proof of actual damages. This amendatory act shall apply retroactively as if enacted as part of the original statute."

Legislative Analyst: Jeff Mann

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.