

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0641.01 Bob Lackner

SENATE BILL 11-119

SENATE SPONSORSHIP

Guzman,

HOUSE SPONSORSHIP

(None),

Senate Committees

Local Government and Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING PROCEDURES GOVERNING THE APPEAL OF A VALUATION
102 OF INCOME-PRODUCING COMMERCIAL REAL PROPERTY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

The bill requires any petitioner appealing a valuation of income-producing commercial real property to the board of assessment appeals, the district court, or an arbitrator, as applicable, to provide to the board of assessment appeals or the district court, as applicable, and the assessor the following information:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Actual income from the property at issue;
- ! Rent roll data; and
- ! Any appraisal performed on the property for the property tax year or years at issue in the appeal.

The bill requires the petitioner to provide the information within 90 days after the appeal has been filed unless the petitioner has already provided such information to the assessor. In the discretion of the board of assessment appeals, the district court, or the arbitrator, as applicable, interest shall cease to accrue on the underlying property tax obligation as of the date the petitioner provides such information. The petitioner may be granted an extension of 30 days to provide such information upon a showing of good cause.

The bill prohibits a petitioner's appeal from being calendared for a hearing before the board of assessment appeals, the district court, or the arbitrator, as applicable, until such time as the petitioner has provided the information required by the bill to the assessor and board of assessment appeals or district court, as applicable.

The bill specifies that any information provided by a petitioner at the request of the assessor shall constitute proprietary information that relates specifically and solely to the valuation of the taxpayer's property and shall not constitute a public record within the meaning of the "Colorado Open Records Act". All such information shall be and remain confidential and shall not be released for any purpose whatsoever. The bill subjects any person who divulges or makes known in any way all or any portion of such information, whether intentional or inadvertent, to existing penalties for divulging confidential information.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 39-8-108, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **39-8-108. Decision - review - opportunity to submit case to**
5 **arbitration.** (1.5) (a) NOTWITHSTANDING ANY OTHER REQUIREMENT OF
6 THIS SECTION, ANY PETITIONER APPEALING A VALUATION OF
7 INCOME-PRODUCING COMMERCIAL REAL PROPERTY TO THE BOARD OF
8 ASSESSMENT APPEALS OR TO THE DISTRICT COURT, AS APPLICABLE, IN
9 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL PROVIDE TO
10 THE BOARD OF ASSESSMENT APPEALS OR THE DISTRICT COURT, AS

1 APPLICABLE, AND THE ASSESSOR THE FOLLOWING INFORMATION:

2 (I) ACTUAL INCOME FROM THE PROPERTY AT ISSUE;

3 (II) RENT ROLL DATA; AND

4 (III) ANY APPRAISAL PERFORMED ON THE PROPERTY FOR THE
5 PROPERTY TAX YEAR OR YEARS AT ISSUE IN THE APPEAL.

6 (b) THE PETITIONER SHALL PROVIDE THE INFORMATION REQUIRED
7 BY PARAGRAPH (a) OF THIS SUBSECTION (1.5) WITHIN NINETY DAYS AFTER
8 THE APPEAL HAS BEEN FILED UNLESS THE PETITIONER HAS ALREADY
9 PROVIDED SUCH INFORMATION TO THE ASSESSOR. IN THE DISCRETION OF
10 THE BOARD OF ASSESSMENT APPEALS OR THE DISTRICT COURT, AS
11 APPLICABLE, INTEREST SHALL CEASE TO ACCRUE ON THE UNDERLYING
12 PROPERTY TAX OBLIGATION AS OF THE DATE THE PETITIONER PROVIDES
13 SUCH INFORMATION. THE PETITIONER MAY BE GRANTED AN EXTENSION OF
14 THIRTY DAYS TO PROVIDE SUCH INFORMATION UPON A SHOWING OF GOOD
15 CAUSE.

16 (c) A PETITIONER'S APPEAL SHALL NOT BE CALENDARED FOR A
17 HEARING BEFORE THE BOARD OF ASSESSMENT APPEALS OR THE DISTRICT
18 COURT, AS APPLICABLE, UNTIL SUCH TIME AS THE PETITIONER HAS
19 PROVIDED THE INFORMATION REQUIRED BY PARAGRAPH (a) OF THIS
20 SUBSECTION (1.5) TO THE ASSESSOR AND THE BOARD OF ASSESSMENT
21 APPEALS OR THE DISTRICT COURT, AS APPLICABLE.

22 (d) ANY INFORMATION PROVIDED BY A PETITIONER PURSUANT TO
23 PARAGRAPH (a) OF THIS SUBSECTION (1.5) AT THE REQUEST OF THE
24 ASSESSOR SHALL CONSTITUTE PROPRIETARY INFORMATION THAT RELATES
25 SPECIFICALLY AND SOLELY TO THE VALUATION OF THE TAXPAYER'S
26 PROPERTY AND SHALL NOT CONSTITUTE A PUBLIC RECORD WITHIN THE
27 MEANING OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE

1 72 OF TITLE 24, C.R.S. ALL SUCH INFORMATION SHALL BE AND REMAIN
2 CONFIDENTIAL AND SHALL NOT BE RELEASED FOR ANY PURPOSE
3 WHATSOEVER. ANY PERSON WHO DIVULGES OR MAKES KNOWN IN ANY
4 WAY ALL OR ANY PORTION OF SUCH INFORMATION, WHETHER INTENTIONAL
5 OR INADVERTENT, SHALL BE SUBJECT TO THE PENALTY DESCRIBED IN
6 SECTION 39-1-116.

7 **SECTION 2.** 39-8-108.5, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **39-8-108.5. Arbitration of property valuations - arbitrators -**
10 **qualifications - procedures.** (2.5) (a) NOTWITHSTANDING ANY OTHER
11 REQUIREMENT OF THIS SECTION, ANY PETITIONER APPEALING A VALUATION
12 OF INCOME-PRODUCING COMMERCIAL REAL PROPERTY TO AN ARBITRATOR
13 IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL PROVIDE
14 TO THE BOARD OF ASSESSMENT APPEALS AND THE ASSESSOR THE
15 FOLLOWING INFORMATION:

16 (I) ACTUAL INCOME FROM THE PROPERTY AT ISSUE;

17 (II) RENT ROLL DATA; AND

18 (III) ANY APPRAISAL PERFORMED ON THE PROPERTY FOR THE
19 PROPERTY TAX YEAR OR YEARS AT ISSUE IN THE APPEAL.

20 (b) THE PETITIONER SHALL PROVIDE THE INFORMATION REQUIRED
21 BY PARAGRAPH (a) OF THIS SUBSECTION (2.5) WITHIN NINETY DAYS AFTER
22 THE APPEAL HAS BEEN FILED UNLESS THE PETITIONER HAS ALREADY
23 PROVIDED SUCH INFORMATION TO THE ASSESSOR. IN THE DISCRETION OF
24 THE ARBITRATOR, INTEREST SHALL CEASE TO ACCRUE ON THE
25 UNDERLYING PROPERTY TAX OBLIGATION AS OF THE DATE THE PETITIONER
26 PROVIDES SUCH INFORMATION. THE PETITIONER MAY BE GRANTED AN
27 EXTENSION OF THIRTY DAYS TO PROVIDE SUCH INFORMATION UPON A

1 SHOWING OF GOOD CAUSE.

2 (c) A PETITIONER'S APPEAL SHALL NOT BE CALENDARED FOR A
3 HEARING BEFORE THE ARBITRATOR UNTIL SUCH TIME AS THE PETITIONER
4 HAS PROVIDED THE INFORMATION REQUIRED BY PARAGRAPH (a) OF THIS
5 SUBSECTION (2.5) TO THE ASSESSOR AND BOARD OF ASSESSMENT APPEALS.

6 (d) ANY INFORMATION PROVIDED BY A PETITIONER PURSUANT TO
7 PARAGRAPH (a) OF THIS SUBSECTION (2.5) AT THE REQUEST OF THE
8 ASSESSOR SHALL CONSTITUTE PROPRIETARY INFORMATION THAT RELATES
9 SPECIFICALLY AND SOLELY TO THE VALUATION OF THE TAXPAYER'S
10 PROPERTY AND SHALL NOT CONSTITUTE A PUBLIC RECORD WITHIN THE
11 MEANING OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE
12 72 OF TITLE 24, C.R.S. ALL SUCH INFORMATION SHALL BE AND REMAIN
13 CONFIDENTIAL AND SHALL NOT BE RELEASED FOR ANY PURPOSE
14 WHATSOEVER. ANY PERSON WHO DIVULGES OR MAKES KNOWN IN ANY
15 WAY ALL OR ANY PORTION OF SUCH INFORMATION, WHETHER INTENTIONAL
16 OR INADVERTENT, SHALL BE SUBJECT TO THE PENALTY DESCRIBED IN
17 SECTION 39-1-116.

18 **SECTION 3.** 24-72-202 (6) (b) (XII) and (6) (b) (XIII), Colorado
19 Revised Statutes, are amended, and the said 24-72-202 (6) (b) is further
20 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

21 **24-72-202. Definitions.** As used in this part 2, unless the context
22 otherwise requires:

23 (6) (b) "Public records" does not include:

24 (XII) Information security audit and assessment reports prepared
25 pursuant to section 24-37.5-403 (2) (d) or 24-37.5-404.5 (2) (d); ~~or~~

26 (XIII) State and local applications and licenses for an optional
27 premises cultivation operation as described in section 12-43.3-403,

1 C.R.S., and the location of the optional premises cultivation operation; OR
2 (XIV) ANY INFORMATION PRODUCED BY A TAXPAYER IN
3 CONNECTION WITH THE APPEAL OF A VALUATION OF INCOME-PRODUCING
4 COMMERCIAL REAL PROPERTY IN ACCORDANCE WITH THE REQUIREMENTS
5 OF SECTION 39-8-108 (1.5) (a) OR 39-8-108.5 (2.5) (a), C.R.S.

6 **SECTION 4. Act subject to petition - effective date -**
7 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
8 following the expiration of the ninety-day period after final adjournment
9 of the general assembly (August 10, 2011, if adjournment sine die is on
10 May 11, 2011); except that, if a referendum petition is filed pursuant to
11 section 1 (3) of article V of the state constitution against this act or an
12 item, section, or part of this act within such period, then the act, item,
13 section, or part shall not take effect unless approved by the people at the
14 general election to be held in November 2012 and shall take effect on the
15 date of the official declaration of the vote thereon by the governor.

16 (2) The provisions of this act shall apply to property tax years
17 commencing on and after January 1, 2011.