

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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/billsummaries>.)

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.

SENATE
Amended 2nd Reading
February 25, 2011

- ! 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. 39-8-107, Colorado Revised Statutes, is amended**
3 **BY THE ADDITION OF A NEW SUBSECTION to read:**
4 **39-8-107. Hearings on appeal. (5) (a) ON AND AFTER THE**
5 **EFFECTIVE DATE OF THIS SUBSECTION (5), IN ADDITION TO ANY OTHER**
6 **REQUIREMENTS UNDER LAW, ANY PETITIONER APPEALING A VALUATION OF**
7 **RENT-PRODUCING COMMERCIAL REAL PROPERTY TO THE BOARD OF**
8 **ASSESSMENT APPEALS PURSUANT TO SECTION 39-8-108 (1) SHALL PROVIDE**
9 **TO THE COUNTY BOARD OF EQUALIZATION OR TO THE BOARD OF COUNTY**
10 **COMMISSIONERS OF THE COUNTY IN THE CASE OF AN ABATEMENT, AND**

1 NOT TO THE BOARD OF ASSESSMENT APPEALS, THE FOLLOWING
2 INFORMATION, IF APPLICABLE:

3 (I) ACTUAL ANNUAL RENTAL INCOME;

4 (II) TENANT REIMBURSEMENTS;

5 (III) ITEMIZED EXPENSES; AND

6 (IV) RENT ROLL DATA, INCLUDING THE NAME OF ANY TENANTS,
7 THE ADDRESS, UNIT, OR SUITE NUMBER OF THE SUBJECT PROPERTY, LEASE
8 START AND END DATES, OPTION TERMS, BASE RENT, SQUARE FOOTAGE
9 LEASED, AND VACANT SPACE FOR TWO FULL YEARS INCLUDING THE BASE
10 YEAR FOR THE RELEVANT PROPERTY TAX YEAR.

11 (b) THE ASSESSOR SHALL, UPON REQUEST MADE BY THE
12 PETITIONER, PROVIDE TO THE PETITIONER ALL OF THE UNDERLYING DATA
13 USED BY THE COUNTY IN CALCULATING THE CAPITALIZATION RATE FOR
14 THE SUBJECT PROPERTY. THE ASSESSOR SHALL REDACT ALL
15 CONFIDENTIAL INFORMATION CONTAINED THEREIN.

16 (c) THE PETITIONER SHALL PROVIDE THE INFORMATION REQUIRED
17 BY PARAGRAPH (a) OF THIS SUBSECTION (5) WITHIN SIXTY DAYS AFTER THE
18 APPEAL HAS BEEN FILED WITH THE BOARD OF ASSESSMENT APPEALS. THE
19 PETITIONER MAY BE GRANTED AN EXTENSION OF THIRTY DAYS TO PROVIDE
20 SUCH INFORMATION UPON A SHOWING OF GOOD CAUSE.

21 (d) IF A PETITIONER FAILS TO PROVIDE THE INFORMATION
22 REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (5) BY THE DEADLINE
23 SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (5), THE COUNTY MAY
24 MOVE THE BOARD OF ASSESSMENT APPEALS TO COMPEL DISCLOSURE AND
25 TO ISSUE APPROPRIATE SANCTIONS FOR NONCOMPLIANCE WITH SUCH
26 ORDER. THE MOTION MAY BE MADE DIRECTLY BY THE COUNTY ATTORNEY
27 AND SHALL BE ACCOMPANIED BY A CERTIFICATION THAT THE COUNTY

1 ASSESSOR HAS IN GOOD FAITH CONFERRED OR ATTEMPTED TO CONFER
2 WITH SUCH PETITIONER IN AN EFFORT TO OBTAIN THE INFORMATION
3 WITHOUT ACTION BY THE BOARD OF ASSESSMENT APPEALS. IF AN ORDER
4 COMPELLING DISCLOSURE IS ISSUED UNDER THIS PARAGRAPH (d) AND THE
5 PETITIONER FAILS TO COMPLY WITH SUCH ORDER, THE BOARD OF
6 ASSESSMENT APPEALS MAY MAKE SUCH ORDERS IN REGARD TO THE
7 NONCOMPLIANCE AS ARE JUST AND REASONABLE UNDER THE
8 CIRCUMSTANCES, INCLUDING AN ORDER DISMISSING THE ACTION OR THE
9 ENTRY OF A JUDGMENT BY DEFAULT AGAINST THE PETITIONER. INTEREST
10 SHALL CEASE TO ACCRUE ON THE UNDERLYING PROPERTY TAX OBLIGATION
11 AS OF THE DATE THE ORDER COMPELLING DISCLOSURE IS ISSUED.

12 (e) IN THE NOTICE OF DETERMINATION, THE COUNTY BOARD OF
13 EQUALIZATION SHALL INFORM A TAXPAYER OF THE TAXPAYER'S
14 OBLIGATION TO PROVIDE THE INFORMATION REQUIRED BY PARAGRAPH (a)
15 OF THIS SUBSECTION (5).

16 (f) ANY INFORMATION PROVIDED BY A PETITIONER PURSUANT TO
17 PARAGRAPH (a) OF THIS SUBSECTION (5) THAT IS EXEMPT FROM
18 DISCLOSURE UNDER EITHER SECTION 24-72-204 (3) (a) (IV), C.R.S., OR
19 PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., SHALL BE AND REMAIN
20 CONFIDENTIAL AND MAY BE USED ONLY BY THE BOARD OF ASSESSMENT
21 APPEALS, THE COUNTY BOARD OF EQUALIZATION, THE BOARD OF COUNTY
22 COMMISSIONERS OF THE COUNTY IN WHICH THE SUBJECT PROPERTY IS
23 LOCATED, THE OFFICE OF THE COUNTY ASSESSOR, OR BY A PERSON HIRED
24 TO APPRAISE THE SUBJECT PROPERTY WHEN SUCH INFORMATION IS
25 PERTINENT TO AN APPEAL.

26 **SECTION 2. Act subject to petition - effective date -**
27 **applicability. (1) This act shall take effect at 12:01 a.m. on the day**

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

9 (2) The provisions of this act shall apply to property tax years
10 commencing on or after January 1, 2011.