

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 11-0641.01 Bob Lackner

SENATE BILL 11-119

SENATE SPONSORSHIP

Guzman,

HOUSE SPONSORSHIP

Pabon,

Senate Committees
Local Government and Energy

House Committees
Finance

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.*

HOUSE
3rd Reading Unam ended
March 30, 2011

HOUSE
Am ended 2nd Reading
March 29, 2011

SENATE
3rd Reading Unam ended
February 28, 2011

SENATE
Am ended 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) (I) ON AND AFTER THE**
5 **EFFECTIVE DATE OF THIS SUBSECTION (5), IN ADDITION TO ANY OTHER**
6 **REQUIREMENTS UNDER LAW, ANY PETITIONER APPEALING EITHER A**
7 **VALUATION OF RENT-PRODUCING COMMERCIAL REAL PROPERTY TO THE**
8 **BOARD OF ASSESSMENT APPEALS PURSUANT TO SECTION 39-8-108 (1) OR**
9 **A DENIAL OF AN ABATEMENT OF TAXES PURSUANT TO SECTION 39-10-114**
10 **SHALL PROVIDE TO THE COUNTY BOARD OF EQUALIZATION OR TO THE**

1 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN THE CASE OF AN
2 ABATEMENT, AND NOT TO THE BOARD OF ASSESSMENT APPEALS, THE
3 FOLLOWING INFORMATION, IF APPLICABLE:

4 (A) ACTUAL ANNUAL RENTAL INCOME FOR TWO FULL YEARS
5 INCLUDING THE BASE YEAR FOR THE RELEVANT PROPERTY TAX YEAR;

6 (B) TENANT REIMBURSEMENTS FOR TWO FULL YEARS INCLUDING
7 THE BASE YEAR FOR THE RELEVANT PROPERTY TAX YEAR;

8 (C) ITEMIZED EXPENSES FOR TWO FULL YEARS INCLUDING THE
9 BASE YEAR FOR THE RELEVANT PROPERTY TAX YEAR; AND

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

15 (II) THE PETITIONER SHALL PROVIDE THE INFORMATION REQUIRED
16 BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) WITHIN NINETY DAYS
17 AFTER THE APPEAL HAS BEEN FILED WITH THE BOARD OF ASSESSMENT
18 APPEALS.

19 (b) (I) THE ASSESSOR, THE COUNTY BOARD OF EQUALIZATION, OR
20 THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY, AS APPLICABLE,
21 SHALL, UPON REQUEST MADE BY THE PETITIONER, PROVIDE TO A
22 PETITIONER WHO HAS FILED AN APPEAL WITH THE BOARD OF ASSESSMENT
23 APPEALS NOT MORE THAN NINETY DAYS AFTER RECEIPT OF THE
24 PETITIONER'S REQUEST, THE FOLLOWING INFORMATION:

25 (A) ALL OF THE UNDERLYING DATA USED BY THE COUNTY IN
26 CALCULATING THE VALUE OF THE SUBJECT PROPERTY THAT IS BEING
27 APPEALED, INCLUDING THE CAPITALIZATION RATE FOR SUCH PROPERTY;

1 AND

2 (B) THE NAMES OF ANY COMMERCIALY AVAILABLE AND
3 COPYRIGHTED PUBLICATIONS USED IN CALCULATING THE VALUE OF THE
4 SUBJECT PROPERTY.

5 (II) THE PARTY PROVIDING THE INFORMATION TO THE PETITIONER
6 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL REDACT
7 ALL CONFIDENTIAL INFORMATION CONTAINED THEREIN.

8

9 (c) IF A PETITIONER FAILS TO PROVIDE THE INFORMATION
10 REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION
11 (5) BY THE DEADLINE SPECIFIED IN SUBPARAGRAPH (II) OF SAID
12 PARAGRAPH (a), THE COUNTY MAY MOVE THE BOARD OF ASSESSMENT
13 APPEALS TO COMPEL DISCLOSURE AND TO ISSUE APPROPRIATE SANCTIONS
14 FOR NONCOMPLIANCE WITH SUCH ORDER. THE MOTION MAY BE MADE
15 DIRECTLY BY THE COUNTY ATTORNEY AND SHALL BE ACCOMPANIED BY A
16 CERTIFICATION THAT THE COUNTY ASSESSOR OR THE COUNTY BOARD OF
17 EQUALIZATION HAS IN GOOD FAITH CONFERRED OR ATTEMPTED TO CONFER
18 WITH SUCH PETITIONER IN AN EFFORT TO OBTAIN THE INFORMATION
19 WITHOUT ACTION BY THE BOARD OF ASSESSMENT APPEALS. IF AN ORDER
20 COMPELLING DISCLOSURE IS ISSUED UNDER THIS PARAGRAPH (c) AND THE
21 PETITIONER FAILS TO COMPLY WITH SUCH ORDER, THE BOARD OF
22 ASSESSMENT APPEALS MAY MAKE SUCH ORDERS IN REGARD TO THE
23 NONCOMPLIANCE AS ARE JUST AND REASONABLE UNDER THE
24 CIRCUMSTANCES, INCLUDING AN ORDER DISMISSING THE ACTION OR THE
25 ENTRY OF A JUDGMENT BY DEFAULT AGAINST THE PETITIONER. INTEREST
26 DUE THE TAXPAYER SHALL CEASE TO ACCRUE AS OF THE DATE THE ORDER
27 COMPELLING DISCLOSURE IS ISSUED, AND THE ACCRUAL OF INTEREST

1 SHALL RESUME AS OF THE DATE THE CONTESTED INFORMATION HAS BEEN
2 PROVIDED BY THE TAXPAYER.

3 (d) IN THE NOTICE OF DETERMINATION, THE COUNTY BOARD OF
4 EQUALIZATION SHALL INFORM A TAXPAYER OF THE TAXPAYER'S
5 OBLIGATION TO PROVIDE THE INFORMATION REQUIRED BY PARAGRAPH (a)
6 OF THIS SUBSECTION (5).

7 (e) THE COUNTY BOARD OF EQUALIZATION AND THE BOARD OF
8 COUNTY COMMISSIONERS RECEIVING ANY INFORMATION PROVIDED BY A
9 PETITIONER PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS
10 SUBSECTION (5) THAT IS EXEMPT FROM DISCLOSURE UNDER EITHER
11 SECTION 24-72-204 (3) (a) (IV), C.R.S., OR ANOTHER PROVISION OF THE
12 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24,
13 C.R.S., SHALL KEEP SUCH INFORMATION CONFIDENTIAL; EXCEPT THAT
14 SUCH INFORMATION MAY BE DISCLOSED TO THE ADMINISTRATOR AND THE
15 EMPLOYEES OF HIS OR HER OFFICE, THE BOARD OF ASSESSMENT APPEALS,
16 THE COUNTY BOARD OF EQUALIZATION, THE BOARD OF COUNTY
17 COMMISSIONERS OF THE COUNTY IN WHICH THE SUBJECT PROPERTY IS
18 LOCATED, THE OFFICE OF THE COUNTY ASSESSOR, OR A PERSON RETAINED
19 TO APPRAISE OR PROVIDE VALUE CONSULTATION IN CONNECTION WITH THE
20 SUBJECT PROPERTY WHERE SUCH INFORMATION IS PERTINENT TO AN
21 APPEAL.

22 (f) NOTHING IN THIS SUBSECTION (5) SHALL BE CONSTRUED TO
23 APPLY TO A PUBLIC UTILITY WHOSE VALUATION FOR PROPERTY TAX
24 PURPOSES IS DETERMINED BY THE ADMINISTRATOR IN ACCORDANCE WITH
25 THE PROVISIONS OF ARTICLE 4 OF THIS TITLE.

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.