

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.*

- ! 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 **INCOME-PRODUCING NONRESIDENTIAL 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) DETAILED ACTUAL ANNUAL REAL ESTATE INCOME;

4 (II) TENANT REIMBURSEMENTS;

5 (III) ITEMIZED DETAILED EXPENSES;

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

11 (V) ANY APPRAISAL RELATED TO THE SUBJECT PROPERTY
12 PREPARED DURING THE BASE YEAR FOR THE RELEVANT PROPERTY TAX
13 YEAR BY A PERSON WHO HOLDS EITHER AN MAI OR SRA MEMBERSHIP AS
14 AWARDED AND DESIGNATED BY THE APPRAISAL INSTITUTE.

15 (b) IN EXCHANGE FOR OBTAINING THE INFORMATION PROVIDED BY
16 THE PETITIONER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE
17 ASSESSOR SHALL, UPON REQUEST MADE BY THE PETITIONER, PROVIDE TO
18 THE PETITIONER ALL OF THE UNDERLYING DATA USED BY THE COUNTY IN
19 CALCULATING THE CAPITALIZATION RATE FOR THE SUBJECT PROPERTY.
20 BEFORE ANY SUCH INFORMATION MAY BE MADE PUBLIC BY THE COUNTY IN
21 CONNECTION WITH A HEARING ON THE APPEAL, THE ASSESSOR SHALL
22 REDACT ALL CONFIDENTIAL INFORMATION CONTAINED THEREIN.

23 (c) THE PETITIONER SHALL PROVIDE THE INFORMATION REQUIRED
24 BY PARAGRAPH (a) OF THIS SUBSECTION (5) WITHIN SIXTY DAYS AFTER THE
25 APPEAL HAS BEEN FILED WITH THE BOARD OF ASSESSMENT APPEALS.
26 INTEREST SHALL CEASE TO ACCRUE ON THE UNDERLYING PROPERTY TAX
27 OBLIGATION AS OF THE DATE THE PETITIONER FAILS TO PROVIDE SUCH

1 INFORMATION. THE PETITIONER MAY BE GRANTED AN EXTENSION OF
2 THIRTY DAYS TO PROVIDE SUCH INFORMATION UPON A SHOWING OF GOOD
3 CAUSE.

4 (d) IF A PETITIONER FAILS TO PROVIDE THE INFORMATION REQUIRED
5 BY PARAGRAPH (a) OF THIS SUBSECTION (5) BY THE DEADLINE SPECIFIED IN
6 PARAGRAPH (c) OF THIS SUBSECTION (5), THE COUNTY MAY MOVE THE
7 BOARD OF ASSESSMENT APPEALS TO COMPEL DISCLOSURE AND TO ISSUE
8 APPROPRIATE SANCTIONS FOR NONCOMPLIANCE WITH SUCH ORDER. THE
9 MOTION MAY BE MADE DIRECTLY BY THE COUNTY ASSESSOR AND SHALL BE
10 ACCOMPANIED BY A CERTIFICATION THAT THE COUNTY ASSESSOR HAS IN
11 GOOD FAITH CONFERRED OR ATTEMPTED TO CONFER WITH SUCH PETITIONER
12 IN AN EFFORT TO OBTAIN THE INFORMATION WITHOUT ACTION BY THE
13 BOARD OF ASSESSMENT APPEALS. IF AN ORDER COMPELLING DISCLOSURE
14 IS ISSUED UNDER THIS PARAGRAPH (d) AND THE PETITIONER FAILS TO
15 COMPLY WITH SUCH ORDER, THE BOARD OF ASSESSMENT APPEALS MAY
16 MAKE SUCH ORDERS IN REGARD TO THE NONCOMPLIANCE AS ARE JUST AND
17 REASONABLE UNDER THE CIRCUMSTANCES, INCLUDING AN ORDER
18 DISMISSING THE ACTION OR THE ENTRY OF A JUDGMENT BY DEFAULT
19 AGAINST THE PETITIONER.

20 (e) IN THE NOTICE OF DETERMINATION, THE COUNTY BOARD OF
21 EQUALIZATION SHALL INFORM A TAXPAYER OF THE TAXPAYER'S
22 OBLIGATION TO PROVIDE THE INFORMATION REQUIRED BY PARAGRAPH (a)
23 OF THIS SUBSECTION (5).

24 (f) ANY INFORMATION PROVIDED BY A PETITIONER PURSUANT TO
25 PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL CONSTITUTE PROPRIETARY
26 INFORMATION THAT RELATES SPECIFICALLY AND SOLELY TO THE
27 VALUATION OF THE TAXPAYER'S PROPERTY AND SHALL NOT CONSTITUTE A

1 PUBLIC RECORD WITHIN THE MEANING OF THE "COLORADO OPEN RECORDS
2 ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. ALL SUCH INFORMATION
3 SHALL BE AND REMAIN CONFIDENTIAL AND MAY BE USED ONLY BY THE
4 BOARD OF ASSESSMENT APPEALS, THE COUNTY BOARD OF EQUALIZATION,
5 THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY, THE ASSESSOR'S
6 OFFICE, OR BY A PERSON HIRED TO APPRAISE THE SUBJECT PROPERTY WHEN
7 SUCH INFORMATION IS PERTINENT TO AN APPEAL.

8 **SECTION 2.** 4-72-202 (6) (b) (XII) and (6) (b) (XIII), Colorado
9 Revised Statutes, are amended, and the said 24-72-202 (6) (b) is further
10 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

11 **24-72-202. Definitions.** As used in this part 2, unless the context
12 otherwise requires:

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

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

16 (XIII) State and local applications and licenses for an optional
17 premises cultivation operation as described in section 12-43.3-403, C.R.S.,
18 and the location of the optional premises cultivation operation; OR

19 (XIV) ANY SUBJECT PROPERTY FINANCIAL INFORMATION
20 PRODUCED BY A TAXPAYER IN CONNECTION WITH THE APPEAL OF A
21 VALUATION OF NONRESIDENTIAL REAL PROPERTY IN ACCORDANCE WITH
22 THE REQUIREMENTS OF SECTION 39-8-107 (5) (a), C.R.S.

23 **SECTION 3. Act subject to petition - effective date -**
24 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
25 following the expiration of the ninety-day period after final adjournment
26 of the general assembly (August 10, 2011, if adjournment sine die is on
27 May 11, 2011); except that, if a referendum petition is filed pursuant to

1 section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part shall not take effect unless approved by the people at the
4 general election to be held in November 2012 and shall take effect on the
5 date of the official declaration of the vote thereon by the governor.

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