



*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

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<b>Drafting Number:</b> LLS 11-0641	<b>Date:</b> July 18, 2011
<b>Prime Sponsor(s):</b> Sen. Guzman Rep. Pabon	<b>Bill Status:</b> Signed into Law
	<b>Fiscal Analyst:</b> Marc Carey (303-866-4102)

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**TITLE:** CONCERNING PROCEDURES GOVERNING THE APPEAL OF A VALUATION OF INCOME-PRODUCING COMMERCIAL REAL PROPERTY.

<b>Fiscal Impact Summary</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>State Revenue</b>		
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Effective Date:</b> The bill was signed into law by the Governor on April 26, 2011, and takes effect on August 10, 2011, assuming no referendum petition is filed.		
<b>Appropriation Summary for FY 2011-2012:</b> None required.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

This bill requires any petitioner appealing a valuation of income-producing non-residential real property to the Board of Assessment Appeals (BAA) or a denial of an abatement of taxes to provide to the County Board of Equalization (CBE), or the Board of County Commissioners (BCC) in the case of an abatement, and *not* to the BAA, the following information for two full years including the base year for the relevant property tax year:

- actual annual real estate income;
- tenant reimbursements;
- itemized detailed expenses; and
- detailed rent roll data as specified.

The bill requires the petitioner to provide this information to the CBE or the BCC within 90 days after the appeal has been filed with the BAA.. Upon a petitioner's request, the assessor, the CBE or the BCC will provide the following information not more than 90 days after receipt of the petitioner's request:

- all underlying data used by the county to calculate the value of the property under appeal; and
- the names of any commercially available publications used to calculate the value.

All confidential information within these publications must be redacted by the party providing the information.

If a petitioner fails to provide the required information by the specified deadline, the bill authorizes the county to move the BAA to compel disclosure and issue appropriated sanctions as necessary. If an order compelling disclosure is issued by the BAA and the petitioner still fails to comply, the BAA may dismiss the action, or enter a judgement by default against the petitioner. The bill ends the accrual of interest on the underlying property tax obligation as of the date that the order compelling disclosure is issued.

The bill specifies that any information provided by a petitioner constitutes proprietary information that relates specifically to the valuation of the taxpayer's property and is not public record. The bill specifies that such information may only be used by the BAA, the CBE, the BCC or a person hired to appraise the subject property. The bill does not apply to public utilities whose property tax valuation is determined by the property tax administrator.

## **Background**

The nine-member BAA hears appeals filed by real and personal property owners regarding the valuation of their property. Except for exempt property and state assessed property, county assessors value all property within their county. Taxpayers that are unhappy with their valuation may appeal the value to 1) the county assessor, and then 2) the CBE or the BCC. State assessed properties and exemptions are initially appealed to the Property Tax Administrator. The BAA then hears appeals on decisions of the 64 CBE's or BCC's and the Property Tax Administrator, in the case of abatements, exemptions and state assessed properties. According the Annual Report of the Division of Property Taxation, in 2007 (the last year in which published data is available), there were 129,234 total protests filed. Of these, 19,280 or 14.9 percent were then taken to the County Board of Equalization. Of these, 2,518 or 13.1 percent were taken to the BAA.

## **State Expenditures**

*No state expenditure impact is anticipated for his bill.*

**Department of Local Affairs, Board of Assessment Appeals.** According to the BAA, in FY 2008-09 and FY 2009-10, 1,308 and 3,959 appeals were filed with the BAA respectively. In the first 6 months of FY 2010-11, 1,965 appeals were made to the BAA. In determining the fiscal impact, this fiscal note makes the following assumptions:

- of the protests filed with the BAA, 10 percent of petitioners will fail to file the required information with the CBE or the BCC by the 60 day deadline;
- this level will be further reduced by the added incentive of ceasing interest accrual for noncompliant petitioners;
- this level will be further reduced by the authority that the bill gives the BAA to issue orders compelling disclosure, and dismissing appeals if the information is still not forthcoming;

- the CBE or the BCC will notify the BAA upon receipt of the required information, and of any petitioners that are delinquent;
- the required information will be stored in a secure fashion at the CBE or BCC offices where it was received; and
- the administrative costs associated with addressing the remaining non-compliant petitioners are absorbable within existing appropriations.

***Department of Local Affairs, Division of Property Taxation.*** The bill specifies information that must be supplied by property owners when appealing a valuation of income-producing commercial real property. The bill does not impact the workload of the Division of Property Taxation. While the division would need to update manuals, publications and training materials, updates already occur on a quarterly basis and could be accomplished within existing appropriations.

### **Local Government Impact**

For local governments, the information required by the bill may or may not justify the valuation under appeal, and thus may or may not result in additional property tax revenue for counties. However, local governments will incur additional administrative costs associated with reviewing and storing the required data submitted by petitioners for their appeal to the BAA. Local governments will also incur costs in notifying the BAA and providing proof that the requisite information has or has not been submitted on time.

### **Departments Contacted**

Division of Property Taxation

Local Affairs