

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 15, 2011  
Date

Committee on Local Government and Energy.

After consideration on the merits, the Committee recommends the following:

SB11-119 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. 39-8-107, Colorado Revised Statutes, is amended  
4 BY THE ADDITION OF A NEW SUBSECTION to read:

5 **39-8-107. Hearings on appeal.** (5) (a) ON AND AFTER THE  
6 EFFECTIVE DATE OF THIS SUBSECTION (5), IN ADDITION TO ANY OTHER  
7 REQUIREMENTS UNDER LAW, ANY PETITIONER APPEALING A VALUATION OF  
8 INCOME-PRODUCING NONRESIDENTIAL REAL PROPERTY TO THE BOARD OF  
9 ASSESSMENT APPEALS PURSUANT TO SECTION 39-8-108(1) SHALL PROVIDE  
10 TO THE COUNTY BOARD OF EQUALIZATION OR TO THE BOARD OF COUNTY  
11 COMMISSIONERS OF THE COUNTY IN THE CASE OF AN ABATEMENT, AND  
12 NOT TO THE BOARD OF ASSESSMENT APPEALS, THE FOLLOWING  
13 INFORMATION, IF APPLICABLE:

- 14 (I) DETAILED ACTUAL ANNUAL REAL ESTATE INCOME;
- 15 (II) TENANT REIMBURSEMENTS;
- 16 (III) ITEMIZED DETAILED EXPENSES;
- 17 (IV) DETAILED RENT ROLL DATA, INCLUDING THE NAME OF ANY  
18 TENANTS, THE ADDRESS, UNIT, OR SUITE NUMBER OF THE SUBJECT  
19 PROPERTY, LEASE START AND END DATES, OPTION TERMS, BASE RENT,  
20 SQUARE FOOTAGE LEASED, AND VACANT SPACE FOR TWO FULL YEARS  
21 INCLUDING THE BASE YEAR FOR THE RELEVANT PROPERTY TAX YEAR; AND  
22 (V) ANY APPRAISAL RELATED TO THE SUBJECT PROPERTY  
23 PREPARED DURING THE BASE YEAR FOR THE RELEVANT PROPERTY TAX

1 YEAR BY A PERSON WHO HOLDS EITHER AN MAI OR SRA MEMBERSHIP AS  
2 AWARDED AND DESIGNATED BY THE APPRAISAL INSTITUTE.

3 (b) IN EXCHANGE FOR OBTAINING THE INFORMATION PROVIDED BY  
4 THE PETITIONER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE  
5 ASSESSOR SHALL, UPON REQUEST MADE BY THE PETITIONER, PROVIDE TO  
6 THE PETITIONER ALL OF THE UNDERLYING DATA USED BY THE COUNTY IN  
7 CALCULATING THE CAPITALIZATION RATE FOR THE SUBJECT PROPERTY.  
8 BEFORE ANY SUCH INFORMATION MAY BE MADE PUBLIC BY THE COUNTY IN  
9 CONNECTION WITH A HEARING ON THE APPEAL, THE ASSESSOR SHALL  
10 REDACT ALL CONFIDENTIAL INFORMATION CONTAINED THEREIN.

11 (c) THE PETITIONER SHALL PROVIDE THE INFORMATION REQUIRED  
12 BY PARAGRAPH (a) OF THIS SUBSECTION (5) WITHIN SIXTY DAYS AFTER THE  
13 APPEAL HAS BEEN FILED WITH THE BOARD OF ASSESSMENT APPEALS.  
14 INTEREST SHALL CEASE TO ACCRUE ON THE UNDERLYING PROPERTY TAX  
15 OBLIGATION AS OF THE DATE THE PETITIONER FAILS TO PROVIDE SUCH  
16 INFORMATION. THE PETITIONER MAY BE GRANTED AN EXTENSION OF  
17 THIRTY DAYS TO PROVIDE SUCH INFORMATION UPON A SHOWING OF GOOD  
18 CAUSE.

19 (d) IF A PETITIONER FAILS TO PROVIDE THE INFORMATION REQUIRED  
20 BY PARAGRAPH (a) OF THIS SUBSECTION (5) BY THE DEADLINE SPECIFIED IN  
21 PARAGRAPH (c) OF THIS SUBSECTION (5), THE COUNTY MAY MOVE THE  
22 BOARD OF ASSESSMENT APPEALS TO COMPEL DISCLOSURE AND TO ISSUE  
23 APPROPRIATE SANCTIONS FOR NONCOMPLIANCE WITH SUCH ORDER. THE  
24 MOTION MAY BE MADE DIRECTLY BY THE COUNTY ASSESSOR AND SHALL BE  
25 ACCOMPANIED BY A CERTIFICATION THAT THE COUNTY ASSESSOR HAS IN  
26 GOOD FAITH CONFERRED OR ATTEMPTED TO CONFER WITH SUCH PETITIONER  
27 IN AN EFFORT TO OBTAIN THE INFORMATION WITHOUT ACTION BY THE  
28 BOARD OF ASSESSMENT APPEALS. IF AN ORDER COMPELLING DISCLOSURE  
29 IS ISSUED UNDER THIS PARAGRAPH (d) AND THE PETITIONER FAILS TO  
30 COMPLY WITH SUCH ORDER, THE BOARD OF ASSESSMENT APPEALS MAY  
31 MAKE SUCH ORDERS IN REGARD TO THE NONCOMPLIANCE AS ARE JUST AND  
32 REASONABLE UNDER THE CIRCUMSTANCES, INCLUDING AN ORDER  
33 DISMISSING THE ACTION OR THE ENTRY OF A JUDGMENT BY DEFAULT  
34 AGAINST THE PETITIONER.

35 (e) IN THE NOTICE OF DETERMINATION, THE COUNTY BOARD OF  
36 EQUALIZATION SHALL INFORM A TAXPAYER OF THE TAXPAYER'S  
37 OBLIGATION TO PROVIDE THE INFORMATION REQUIRED BY PARAGRAPH (a)  
38 OF THIS SUBSECTION (5).

39 (f) ANY INFORMATION PROVIDED BY A PETITIONER PURSUANT TO  
40 PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL CONSTITUTE PROPRIETARY  
41 INFORMATION THAT RELATES SPECIFICALLY AND SOLELY TO THE

1 VALUATION OF THE TAXPAYER'S PROPERTY AND SHALL NOT CONSTITUTE A  
2 PUBLIC RECORD WITHIN THE MEANING OF THE "COLORADO OPEN RECORDS  
3 ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. ALL SUCH INFORMATION  
4 SHALL BE AND REMAIN CONFIDENTIAL AND MAY BE USED ONLY BY THE  
5 BOARD OF ASSESSMENT APPEALS, THE COUNTY BOARD OF EQUALIZATION,  
6 THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY, THE ASSESSOR'S  
7 OFFICE, OR BY A PERSON HIRED TO APPRAISE THE SUBJECT PROPERTY WHEN  
8 SUCH INFORMATION IS PERTINENT TO AN APPEAL.

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

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

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

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

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

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

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

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

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