An Act

SENATE BILL 11-119

BY SENATOR(S) Guzman, Aguilar, Foster, Giron, Nicholson;
also REPRESENTATIVE(S) Pabon, Conti, Fischer, Hullinghorst, Kagan, Kerr J., Labuda, Massey, Schafer S., Vigil, Wilson.

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

Be it enacted by the General Assembly of the State of Colorado:

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

39-8-107. Hearings on appeal. (5) (a) (I) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (5), IN ADDITION TO ANY OTHER REQUIREMENTS UNDER LAW, ANY PETITIONER APPEALING EITHER A VALUATION OF RENT-PRODUCING COMMERCIAL REAL PROPERTY TO THE BOARD OF ASSESSMENT APPEALS PURSUANT TO SECTION 39-8-108 (1) OR A DENIAL OF AN ABATEMENT OF TAXES PURSUANT TO SECTION 39-10-114 SHALL PROVIDE TO THE COUNTY BOARD OF EQUALIZATION OR TO THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN THE CASE OF AN ABATEMENT, AND NOT TO THE BOARD OF ASSESSMENT APPEALS, THE FOLLOWING INFORMATION, IF APPLICABLE:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

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

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

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

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

(B) THE NAMES OF ANY COMMERCIALLY AVAILABLE AND COPYRIGHTED PUBLICATIONS USED IN CALCULATING THE VALUE OF THE SUBJECT PROPERTY.

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

(c) IF A PETITIONER FAILS TO PROVIDE THE INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (5) BY THE

DEADLINE SPECIFIED IN SUBPARAGRAPH (II) OF SAID PARAGRAPH (a), THE COUNTY MAY MOVE THE BOARD OF ASSESSMENT APPEALS TO COMPEL DISCLOSURE AND TO ISSUE APPROPRIATE SANCTIONS FOR NONCOMPLIANCE WITH SUCH ORDER. THE MOTION MAY BE MADE DIRECTLY BY THE COUNTY ATTORNEY AND SHALL BE ACCOMPANIED BY A CERTIFICATION THAT THE COUNTY ASSESSOR OR THE COUNTY BOARD OF EQUALIZATION HAS IN GOOD FAITH CONFERRED OR ATTEMPTED TO CONFER WITH SUCH PETITIONER IN AN EFFORT TO OBTAIN THE INFORMATION WITHOUT ACTION BY THE BOARD OF ASSESSMENT APPEALS. IF AN ORDER COMPELLING DISCLOSURE IS ISSUED UNDER THIS PARAGRAPH (c) AND THE PETITIONER FAILS TO COMPLY WITH SUCH ORDER, THE BOARD OF ASSESSMENT APPEALS MAY MAKE SUCH ORDERS IN REGARD TO THE NONCOMPLIANCE AS ARE JUST AND REASONABLE UNDER THE CIRCUMSTANCES, INCLUDING AN ORDER DISMISSING THE ACTION OR THE ENTRY OF A JUDGMENT BY DEFAULT AGAINST THE PETITIONER. INTEREST DUE THE TAXPAYER SHALL CEASE TO ACCRUE AS OF THE DATE THE ORDER COMPELLING DISCLOSURE IS ISSUED, AND THE ACCRUAL OF INTEREST SHALL RESUME AS OF THE DATE THE CONTESTED INFORMATION HAS BEEN PROVIDED BY THE TAXPAYER.

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

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

(f) NOTHING IN THIS SUBSECTION (5) SHALL BE CONSTRUED TO APPLY

TO A PUBLIC UTILITY WHOSE VALUATION FOR PROPERTY TAX PURPOSES IS DETERMINED BY THE ADMINISTRATOR IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF THIS TITLE.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

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

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED 11:51 am April 26, 2011

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO