

January 28, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1088

Page 1, line 7, after "1." insert "a."

Page 2, replace lines 3 through 25 with:

- "b. The commissioner shall disclose state tax return information pursuant to an order or subpoena issued by a court of competent jurisdiction upon application by a local, state, or federal law enforcement official if the court determines on the basis of the facts submitted by the applicant that:
  - (1) There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;
  - (2) There is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act;
  - (3) The return or return information is sought exclusively for use in a criminal investigation or proceeding concerning such act; and
  - (4) The information sought to be disclosed cannot reasonably be obtained under the circumstances, from another source.
- c. The application provided for under subdivision b must be served on the tax commissioner and a hearing on the application must be held no later than ten days from the date the tax commissioner received the application. The tax commissioner may appear at the hearing and provide the court information relating to the information contained on the return, and whether the application meets paragraphs 1 through 4 of subdivision b.
- d."

Page 3, line 15, after "1." insert "a."

Page 3, line 22 , replace "Except as provided in this section, returns and return information are" with:

- "b. The commissioner shall disclose state tax return information pursuant to an order or subpoena issued by a court of competent jurisdiction upon application by a local, state, or federal law enforcement official if the court determines on the basis of the facts submitted by the applicant that:
  - (1) There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

- (2) There is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act;
- (3) The return or return information is sought exclusively for use in a criminal investigation or proceeding concerning such act; and
- (4) The information sought to be disclosed cannot reasonably be obtained under the circumstances, from another source.
- c. The application provided for under subdivision b must be served on the tax commissioner and a hearing on the application must be held no later than ten days from the date the tax commissioner received the application. The tax commissioner may appear at the hearing and provide the court information relating to the information contained on the return, and whether the application meets paragraphs 1 through 4 of subdivision b.
- d."

Page 3, remove lines 23 through 31

Page 4, remove lines 1 through 13

Renumber accordingly