

**2007 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-SB69)**

Received: **01/29/2008**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim Gary**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Friske@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Limit scope to income tax preparation, exempt CPAs and attorneys, law enforcement exception, severability

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 02/01/2008	wjackson 02/01/2008		_____			
/1			pgreensl 02/04/2008	_____	sbasford 02/04/2008	sbasford 02/04/2008	

FE Sent For:

<END>

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/?	csundber	1/11/08 2/11	2/4	<del>2/4</del>			
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FE Sent For:

<END>

## Sundberg, Christopher

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**From:** Gary, Tim  
**Sent:** Tuesday, January 29, 2008 11:16 AM  
**To:** Sundberg, Christopher  
**Subject:** SB 69

Chris,

Please draft ASA 2 to SB 69 incorporating the following concepts:

- ✓• All of ASA 1 (Friske)
- ✓• AA 1 to ASA 1 (Davis)
- Add a severability component to AA 1 to ASA 1 providing that if the law enforcement exemption is ever struck down, the remainder of the bill will remain in effect. You may have to draft it to state that if any provision is found unconstitutional, the remainder of the bill remains in effect
- Change the language for government exemption to say, "Subsection (2) does not apply to the disclosure of information to a federal, state, or local government entity authorized to collect a tax or court thereof."

Tim Gary  
Research Assistant to  
Rep. Don Friske

AB 455

## Sundberg, Christopher

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**From:** Gary, Tim  
**Sent:** Friday, February 01, 2008 12:15 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: SB 69

Keep the exemption for attorneys  
Okay to use individual

---

**From:** Sundberg, Christopher  
**Sent:** Friday, February 01, 2008 11:51 AM  
**To:** Gary, Tim  
**Subject:** RE: SB 69

I think the situation you describe could be prosecuted as a criminal offense under current law. It's not my area of expertise, but it would seem to fit under s. 943.201 (class H felony). I think federal criminal law would also prohibit selling someone else's SSN.

As for the sub, to clarify:

1. Delete the exemption for attorneys?
2. Not OK to refer to "an **individual** or firm" instead of "a person or firm"? Current section 442.08 (1) uses "individual".

---

**From:** Gary, Tim  
**Sent:** Friday, February 01, 2008 11:29 AM  
**To:** Sundberg, Christopher  
**Subject:** SB 69

Chris,

Here is what Friske has approved:

- All of ASA 1 (Friske)
- AA 1 to ASA 1 (Davis)
- Change the language for government exemption to say, "Subsection (2) does not apply to the disclosure of information to a federal, state, or local government entity authorized to collect a tax or to a court."
- Page 1 Lines 10 & 11: "A person or firm holding a certified public accountant license granted by the accounting examining board under s. 442.08"
- Page 2 Line 2: "A person employed by a corporate trustee, bank or trust company authorized to provide fiduciary services under state or federal law"

Is there a provision in this bill (or a different existing statute) that ensures that people who are exempt under this bill (lawyers, CPAs or bankers) who act outside of their official duties as tax preparers can be fully prosecuted? My fear is that a lawyer, CPA or banker who is crummy at their job could gather up SSNs over the years, get fired by their employer or customers and as revenge ... sell the SSNs they gathered. If they had already lost their professional license ... is there no punishment or recourse to get at them.

Tim Gary

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**From:** Gary, Tim  
**Sent:** Wednesday, January 30, 2008 4:18 PM  
**To:** Sundberg, Christopher  
**Subject:** FW: SB 69

Could you also please amend page 1 lines 10 & 11 to state:  
"A person or firm holding a certified public accountant license granted by the accounting examining board under s. 442.08"

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**From:** Gary, Tim  
**Sent:** Tuesday, January 29, 2008 11:26 AM

**To:** Sundberg, Christopher  
**Subject:** RE: SB 69

Fine with me.

Thanks

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**From:** Sundberg, Christopher  
**Sent:** Tuesday, January 29, 2008 11:26 AM  
**To:** Gary, Tim  
**Subject:** RE: SB 69

How about "or to a court"? When we use "thereof", our editors stab us with their red pencils.

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**From:** Gary, Tim  
**Sent:** Tuesday, January 29, 2008 11:24 AM  
**To:** Sundberg, Christopher  
**Subject:** RE: SB 69

I have a lawyer concerned that the exemption for a government entity collecting a tax does not include courts. The lawyer wants it crystal clear that responding to court subpoenas and orders is permissive.

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**From:** Sundberg, Christopher  
**Sent:** Tuesday, January 29, 2008 11:22 AM  
**To:** Gary, Tim  
**Subject:** RE: SB 69

I think so--let me talk to a couple people.

Also, can you explain what "or court thereof" means?

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**From:** Gary, Tim  
**Sent:** Tuesday, January 29, 2008 11:21 AM  
**To:** Sundberg, Christopher  
**Subject:** RE: SB 69

Can we do it anyhow (even if we are just cross referencing 990.001 (11)? It is the lynchpin to passing it now. While it may not be good form for LRB, it is the political key to final passage.

Tim Gary  
Research Assistant to  
Rep. Don Friske

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**From:** Sundberg, Christopher  
**Sent:** Tuesday, January 29, 2008 11:19 AM  
**To:** Gary, Tim  
**Subject:** RE: SB 69

I think severability language is unnecessary: s. 990.001 (11) provides that the unconstitutionality of any provision of the statutes or of a session law does not affect other provisions that can be given effect independently of the unconstitutional provision if severing the unconstitutional portion does not foil the legislature's manifest intent.

CS

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**From:** Gary, Tim  
**Sent:** Tuesday, January 29, 2008 11:16 AM  
**To:** Sundberg, Christopher  
**Subject:** SB 69

Chris,

Please draft ASA 2 to SB 69 incorporating the following concepts:

- All of ASA 1 (Friske)
- AA 1 to ASA 1 (Davis)
- Add a severability component to AA 1 to ASA 1 providing that if **the law enforcement** exemption is ever struck down, the remainder of the bill will remain in effect. You may have to draft it to state that if **any** provision is found unconstitutional, the remainder of the bill remains in effect
- Change the language for government exemption to say, "Subsection (2) does not apply to the disclosure of information to a federal, state, or local government entity authorized to collect a tax or court thereof."

Tim Gary  
Research Assistant to  
Rep. Don Friske

14: 2/1/08 Wanted: Mon 2/4/08

0237/1

2007 - 2008 LEGISLATURE

LRBs0177/2

CTS:wlj:jf

PMNIR

stays

ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 69

January 10, 2008 - Offered by Representative FRISKE.

Regen

1 AN ACT *to create* 100.55 of the statutes; **relating to:** information obtained by  
2 a tax preparer in the course of preparing a client's tax return and providing a  
3 penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 SECTION 1. 100.55 of the statutes is created to read:  
5 **100.55 Tax preparers; privacy of client information. (1)** In this section:  
6 (a) "Client" means a person whose tax return is prepared by a tax preparer.  
7 (b) "Tax preparer" means a person who, in exchange for compensation or  
8 expectation of compensation, prepares an income tax return of another person, but  
9 does not include any of the following:  
10 1. A person who holds a certified public accountant license granted by the  
11 accounting examining board under s. 442.08.

bank

1 2. A person who holds a license to practice law in this state.

2 3. A person employed by a corporate trustee or trust company authorized to  
3 provide fiduciary services under ch. 223.

state or federal law

4 (2) A tax preparer or entity that employs tax preparers may not disclose to  
5 another person information obtained in the course of preparing a client's tax return,  
6 unless all of the following apply:

7 (a) The tax preparer or entity provides to the client a separate document that  
8 identifies all of the following:

9 1. The persons to whom the tax preparer or entity intends to disclose the  
10 information.

11 2. The specific information that the tax preparer or entity intends to disclose.

12 3. The purpose of the disclosure.

13 (b) The document provided under par. (a) informs the client that the client may  
14 at any time revoke consent to the disclosure of information obtained in the course of  
15 preparing the client's tax return for a tax year by giving notice to the tax preparer  
16 or entity that prepared the client's tax return for the tax year.

17 (c) The client signs the document provided by the tax preparer or entity under  
18 par. (a).

19 (d) Within 30 days after the date on which the tax preparer or entity completes  
20 work on the client's tax return or the date on which the client signs the document  
21 provided by the tax preparer or entity under par. (a), whichever occurs first, the tax  
22 preparer or entity provides to the client a copy of the document signed by the client.

any of the following

23 (3) Subsection (2) does not apply to the disclosure of information to a federal,

24 state, or local government entity that is authorized to collect a tax.

INS 2-24





**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0237/lins  
CTS:.....

1

**Insert 2-24:**

2

(a) A federal, state, or local government<sup>al</sup> entity that is authorized to collect a tax.

3

(b) A federal, state, or local law enforcement agency.

4

(c) A court.