

2007 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-SB69)**Received: **02/04/2008**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:

Change person to individual or firm

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 02/04/2008	wjackson 02/05/2008		_____			
/1	csundber 02/06/2008	jdyer 02/06/2008	jfrantze 02/05/2008	_____	lparisi 02/05/2008	lparisi 02/05/2008	
/2			rschluet 02/06/2008	_____	sbasford 02/06/2008	sbasford 02/06/2008	

FE Sent For:

<END>

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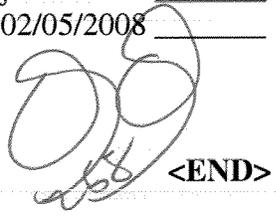
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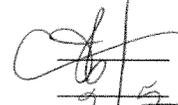
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/?	csundber	1 wlj 2/5	 2/5	 2/5			

FE Sent For:

<END>

In: 2/5/08 wanted: TODAY

2007 - 2008 LEGISLATURE

LRBs0237/1

CTS:wlj:pg

RmNR

0255/1

↑
stays

ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2007 SENATE BILL 69

February 4, 2008 - Offered by Representative FRISKE.

1 AN ACT ^{Regen} 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.

Not

= An individual ^{who} / or firm that

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

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

23 **(3)** Subsection (2) does not apply to the disclosure of information to any of the
24 following:

1 (a) A federal, state, or local governmental entity that is authorized to collect a
2 tax.

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

4 (c) A court.

5 **(4)** A document provided by a tax preparer or entity under sub. (2) (a) shall
6 remain valid for one year from the date on which it is signed by a client or until the
7 client revokes consent to the disclosure of information obtained in the course of
8 preparing the client's tax return, whichever occurs first.

9 **(5)** A tax preparer or entity shall retain a copy of the document provided to a
10 client under sub. (2) (a) for as long as the tax preparer or entity retains the client's
11 tax records for the tax year for which the client has consented to disclosure under sub.
12 (2).

13 **(6)** (a) Any person suffering pecuniary loss because of a violation of this section
14 may commence an action to recover the pecuniary loss. If the person prevails, the
15 person shall recover twice the amount of the pecuniary loss, or \$200 for each
16 violation, whichever is greater, together with costs, including reasonable attorney
17 fees, notwithstanding s. 814.04 (1).

18 (b) The department may commence an action in the name of the state to
19 restrain by temporary or permanent injunction a violation of this section. Before
20 entry of final judgment, the court may make any necessary orders to restore to a
21 person any pecuniary loss suffered by the person because of the violation.

22 (c) The department or a district attorney may commence an action in the name
23 of the state to recover a forfeiture to the state of not less than \$100 nor more than
24 \$10,000 for each violation of this section.

25

(END)

Sundberg, Christopher

From: Gary, Tim
Sent: Tuesday, February 05, 2008 5:42 PM
To: Sundberg, Christopher
Cc: Leighton, Kyle
Subject: RE: ASA 3

Chris,

Friske has requested LRB s255/1 be amended into a /2 with the following language:
100.55 Tax preparers; privacy of client information. (1) In this section:

- (a) Client means a person whose tax return is prepared by a tax preparer.
(b) Tax preparer means a person who, in exchange for compensation or expectation of compensation, prepares an income tax return of another person, but does not include any of the following:
1. An individual who or firm that is licensed under s. 442.08.
 2. An individual who is licensed to practice law in this state.
 3. An individual who is employed by a corporate trustee, bank, or trust company and who is authorized to provide fiduciary services under state or federal law.

This will need to be introduced before 10 AM on Wednesday, so if a rush order can be placed, Friske would appreciate.

Tim Gary

CC: Kyle Leighton

-----Original Message-----
From: Sundberg, Christopher
Sent: Tue 2/5/2008 3:06 PM
To: Gary, Tim
Cc: Grosz, Scott
Subject: FW: ASA 3

Here's some language Scott and I have discussed:

For just the individuals in option 1:

1. An individual who or firm that is licensed under s. 442.08.
2. An individual who is licensed to practice law in this state.
3. An individual who is employed by a corporate trustee, bank, or trust company and who is authorized to provide fiduciary services under state or federal law.

Or, to add the receptionists, assistants, etc., add:

4. An individual who is employed by a person identified in subds. 1. or 2. or who is employed by a corporate trustee, bank, or trust company that is authorized to provide fiduciary services under state or federal law, but only to the extent that the individual is acting in the individual's capacity as an employee of a person identified in subds. 1. or 2. or as an employee of a corporate trustee, bank, or trust company that is authorized to provide fiduciary services under state or federal law.

-----Original Message-----
From: Grosz, Scott
Sent: Tuesday, February 05, 2008 2:42 PM
To: Sundberg, Christopher
Subject: RE: ASA 3

I see what you're saying re: 3. The new suggestion for 4 seems like it would work as well.

Scott

-----Original Message-----



ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2007 SENATE BILL 69

✓

Regen

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is licensed ✓

An individual who is licensed ✓

1

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

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3. A person employed by a corporate trustee, bank, or trust company authorized to provide fiduciary services under state or federal law.

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and who is ✓

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

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

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22 (c) The department or a district attorney may commence an action in the name
23 of the state to recover a forfeiture to the state of not less than \$100 nor more than
24 \$10,000 for each violation of this section.

25 (END)

Sundberg, Christopher

From: Sundberg, Christopher
Sent: Friday, February 15, 2008 2:33 PM
To: Gary, Tim
Subject: RE: SB 69

I think that's correct, although for a slightly different reason. I wouldn't even get to the question of exemptions, because I don't think the employee in your hypothetical is a person who, for compensation, "prepares an income tax return of another person." If the employee isn't a tax preparer, the employee doesn't need an exemption.

Let me know if you have further questions or if you think an amendment is necessary.

CS

From: Gary, Tim
Sent: Thursday, February 14, 2008 3:41 PM
To: Sundberg, Christopher
Subject: SB 69

Mr. Sundberg,

In regards to Assembly Substitute Amendment 3 to Senate Bill 69:

If an employee, acting on the instructions of an exempted employer, discloses tax form information by actions such as placing information into the United States Postal Service or sending via facsimile to a third party
Could the employee be subject to prosecution under the provisions of ASA 3 to SB 69?

It is my belief that an employee acting on the direction from an exempted employer could not be subject to prosecution since administrative agent actions of the employee would be considered actions of the exempted employer.

If this request needs further explanation, please feel free to contact me.

Representative Donald R Friske
35th Assembly District
Wisconsin State Legislature