

AMENDED IN SENATE JUNE 9, 2008  
AMENDED IN ASSEMBLY MAY 14, 2007  
AMENDED IN ASSEMBLY MAY 3, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1088**

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**Introduced by Assembly Member Carter**

February 23, 2007

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~~An act to amend Section 33492.40 of the Health and Safety Code, relating to redevelopment. An act to amend Section 1775.5 of the Insurance Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1088, as amended, Carter. ~~Military base conversion redevelopment plans. Surplus line brokers: taxation.~~

*Existing law provides that every surplus line broker shall annually pay to the commissioner a tax of 3% of the gross premiums less return premiums upon business done by him or her during the preceding calendar year, excluding premiums for specified business.*

*This bill would also exempt the risk portion of any blended finite risk product used in the financing element of state or federal Superfund environmental settlements, as specified, from the 3% gross premium tax on surplus line brokers.*

*This bill would take effect immediately as a tax levy.*

~~Existing law authorizes the establishment of a joint powers agency to operate within the area of former George Air Force Base or former Norton Air Force Base for the adoption and implementation of a military base conversion redevelopment plan for that area. Existing law requires~~

~~the military base conversion redevelopment plan to contain all of the provisions required under the Community Redevelopment Law, except that the joint powers agency may eliminate or modify certain requirements that apply generally to redevelopment plans and relate to time limitations on loans and on the effectiveness of a redevelopment plan and limitations on the amount of outstanding bonded indebtedness, if the agency makes certain findings relating to the impracticability of compliance with those requirements:~~

~~Existing law requires a military base conversion redevelopment plan to contain certain time and funding limitations:~~

~~This bill would provide that the time and funding limitations in existing law for military base conversion redevelopment plans are not applicable to a military base conversion redevelopment plan or amendment thereto for which the joint powers agency has eliminated or modified the limitations in existing law that apply generally to redevelopment plans.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1775.5 of the Insurance Code is amended  
2     to read:  
3     1775.5. (a) Every surplus line broker shall annually, on or  
4     before the first day of March of each year pay to the Insurance  
5     Commissioner for the use of the State of California a tax of 3  
6     percent of the gross premiums less return premiums upon business  
7     done by him or her under authority of his or her license during the  
8     preceding calendar year, excluding *any portions of* premiums upon  
9     business done *involving the risk finance portion of any blended*  
10    *finite risk product used in the financing element of state or federal*  
11    *Superfund environmental settlements involving remediation of soil*  
12    *or ground water contamination or by the provisions of Section*  
13    1760.5. If during any calendar year 3 percent of such return  
14    premiums upon business done by a surplus line broker exceed 3  
15    percent of the gross premiums upon such business done by him or  
16    her in that year, then he or she may either carry forward such excess  
17    to the next succeeding year and apply it as a credit against 3 percent  
18    of gross premiums on such business done by him or her in such  
19    succeeding year, or he or she may elect to receive, and thereupon

1 be paid a refund equal to the amount of taxes theretofore paid by  
2 him or her on such excess of return premiums paid over gross  
3 premiums received.

4 ~~For~~

5 (b) For the purpose of determining such tax, the total premium  
6 charged for all such nonadmitted insurance placed in a single  
7 transaction with one underwriter or group of underwriters, whether  
8 in one or more policies, shall be allocated to this state in such  
9 proportion as the total premium on the insured properties or  
10 operations in this state, as computed on the exposure in this state  
11 on the basis of any single standard rating method in use in all states  
12 or countries where such insurance applies, bears to the total  
13 premium so computed in all states or countries in which such  
14 nonadmitted insurance may apply. This provision shall not apply  
15 to interstate motor transit operations conducted between this and  
16 other states. With respect to such operations surplus line tax shall  
17 be payable on the entire premium charged on all nonadmitted  
18 insurance, less the following:

19 ~~(a)~~

20 (1) Such portion of the premium as is determined, as herein  
21 provided, to have been charged for operations in other states taxing  
22 such premium on operations in such states of an insured  
23 maintaining its headquarters office in this state.

24 ~~(b)~~

25 (2) The premium for any operations outside of this state of an  
26 insured who maintains a headquarters operating office outside of  
27 this state and a branch office in this state.

28 ~~A~~

29 (c) A penalty of 10 percent of the amount of the payment due  
30 pursuant to this section shall be levied upon and paid by any  
31 surplus line broker who fails to make the necessary payment within  
32 the time required, plus interest at the rate of 1 percent per calendar  
33 month or fraction thereof, from March 1, the due date of the annual  
34 tax, until the date the payment is received by the commissioner.  
35 The penalty and interest shall be applied as prescribed in Section  
36 12636.5 of the Revenue and Taxation Code. The commissioner,  
37 upon a showing of good cause, may extend for a period not to  
38 exceed 30 days, the time for filing a tax return or paying any  
39 amount required to be paid with the return. The extension may be  
40 granted at any time, provided that a request therefor is filed with

1 the commissioner within, or prior to, the period for which the  
2 extension may be granted.

3 Any surplus line broker to whom an extension is granted shall,  
4 in addition to the tax, pay interest at the rate of 1 percent per month  
5 or fraction thereof from March 1, until the date of payment. The  
6 commissioner may remit the penalty in a case where the  
7 commissioner finds, as a result of examination or otherwise, that  
8 the failure of or delay in payment arose out of excusable mistake  
9 or excusable inadvertence.

10 ~~For~~

11 *(d) For any part of a payment required by this section or by*  
12 *Section 1775.4 which was not made within the time required by*  
13 *law, when such nonpayment or late payment was due to fraud on*  
14 *the part of the broker, a penalty of 25 percent of the amount unpaid*  
15 *shall be added thereto, in addition to all other penalties otherwise*  
16 *imposed.*

17 *(e) For the purposes of this section these terms shall have the*  
18 *following meanings:*

19 *(1) "Blended finite risk product" means a contractual*  
20 *arrangement combining risk finance with traditional risk transfer,*  
21 *where a distinct portion of the program cost represents the funding*  
22 *of a known, existing, nonfortuitous future cost, obligation,*  
23 *responsibility, or liability at its discounted net present value, and*  
24 *another portion of the program cost represents risk transfer for*  
25 *losses which have yet to occur related to the cost, obligation,*  
26 *responsibility, or liability that is the subject of the program.*

27 *(2) "Risk financing" means that portion of any blended finite*  
28 *risk product which represents the funding of a known, existing,*  
29 *nonfortuitous future cost, obligation, responsibility, or liability.*

30 *(3) "Risk finance" or "financing element" means a method of*  
31 *funding for a known future cost over a long time horizon in*  
32 *current-value dollars using the principle of net present value*  
33 *discounting.*

34 *SEC. 2. This act provides for a tax levy within the meaning of*  
35 *Article IV of the Constitution and shall go into immediate effect.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in Assembly,  
May 14, 2007 (JR11)**

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