

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Frommer Analyst: Jeff Garnier Bill Number: AB 1297

Related Bills: See Prior Analysis Telephone: 845-5322 Amended Date: July 6, 2004

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Prohibit Tax Shelters from Being an Insurable Risk

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would:

- Prohibit insurance companies from insuring an abusive tax shelter.
- Create a penalty, imposed on the taxpayer, equal to 75% of the proceeds received from insurance relating to an abusive tax shelter.

## SUMMARY OF AMENDMENTS

The July 7, 2004, amendments clarified the following:

- The prohibition against insuring abusive tax avoidance transactions only applies to persons with an economic interest in the transaction, including the investor, material advisor, organizer and promoter.
- The 75% penalty applicable to the receipt of insurance proceeds would only apply to proceeds received by a person with an economic interest in the transaction.
- The prohibition against the sale or amendment of an insurance policy applies to policies sold or amended on or after January 1, 2005.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA       PENDING

Legislative Director

Brian Putler

Date

7/12/04

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The analysis of the bill as amended June 22, 2004, still applies.

**POSITION**

Pending.

**LEGISLATIVE STAFF CONTACT**

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