

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 821 w/CS Service of Process against the Florida Automobile Joint Underwriting Association

SPONSOR(S): Gannon

TIED BILLS: **IDEN./SIM. BILLS:** SB 1960

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Insurance Regulation (Sub)</u>	<u>7 Y, 0 N</u>	<u>Cheek</u>	<u>Schulte</u>
2) <u>Insurance</u>	<u>14 Y, 0 N w/CS</u>	<u>Cheek</u>	<u>Schulte</u>
3) <u>Judiciary</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill specifies that the Florida Automobile Joint Underwriting Association (FAJUA) is deemed to have appointed its general manager as its agent for service of process purposes.

There does not appear to be a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The Florida Automobile Joint Underwriting Association (FAJUA) is the market of last resort for those unable to obtain automobile insurance coverage in the "voluntary" (private) market. Typically, joint underwriting associations are associations of insurance companies in which each insurer is required, by law, to participate and whose losses are shared by participating insurers in proportion to their voluntary market share.

Under Florida law, insurance companies have been required to designate the Commissioner of Insurance as its agent for service of process. Notice of a lawsuit is served upon the commissioner and the commissioner's office forwards the document to the insurer. Legislation enacted in 2002 reassigned the statutory duties of the Comptroller and Treasurer to the newly created Department of Financial Service (DFS), headed by the Chief Financial Officer (CFO), and to the Financial Services Commission, effective January 7, 2002. Hence, insurance companies are now required to designate the CFO as its agent for service of process.

The FAJUA by law, unlike insurance companies, is not required to maintain a certificate of authority. Therefore, there is no specific requirement for service of process against the FAJUA. This causes confusion with respect to filing of lawsuits and handicaps the FAJUA's ability to meet statutory deadlines.

The bill specifies that the FAJUA appoint its general manager as its agent for service of process purposes.

C. SECTION DIRECTORY:

Section 1: Amends section 627.311, F.S. – *Joint underwriters and joint reinsurers.*

Section 2: Provides the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The committee substitute differs from the bill as filed in that it specifies that the Florida Association of Joint Underwriting Association (FAJUA) appoints its General Manager as agent for service of process purposes. The original bill had provided for appointment of the Chief Financial Officer as agent for service of process.