

## 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:** None

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

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)	7 Y, 0 N	Cheek	Schulte
2) Insurance	14 Y, 0 N w/CS	Cheek	Schulte
3) Judiciary	16 Y, 0 N	Billmeier	Havlicak
4)			
5)			

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### SUMMARY ANALYSIS

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

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

This bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0821e.ju.doc

**DATE:** April 16, 2003

## 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. The bill provides that service of process on the general manager or agent is the sole method for service of process.

#### C. SECTION DIRECTORY:

Section 1: Amends section 627.311, F.S. – *Joint underwriters and joint reinsurers*, to provide that the general manager of the FAJUA is the agent for the FAJUA. As agent, the general manager is to receive service of all legal process issued against FAJUA in any civil action or proceeding in the state. Process served is valid and binding upon the insurer.

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 on Insurance adopted an amendment to make the general manager of the FAJUA the agent for service of process. Under the original bill, the Chief Financial Officer was designated as the agent. The bill, as amended, was reported favorably as a committee substitute.