SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1464

SPONSOR: Senator Dyer

SUBJECT: Property Insurance

DATE: March 8, 1999 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Emrich	Deffenbaugh	BI	Favorable
2.				
3.				
4.				
5.				

I. Summary:

The bill deletes the provision which specifies that an insurer or agent may not qualify for a bonus or exemption from payment of assessments to the Florida Residential Property and Casualty Joint Underwriting Association (JUA) after the number of risks insured by the JUA is *less* than 250,000. On January 1, 1999, the JUA policy count dropped below 250,000 policies. The effect of repealing this provision allows the JUA (which currently has approximately 218,142 policies) to continue to offer financial incentives to insurers to take over homeowner's policies and other risks insured by the JUA.

This bill repeals s. 627.3511 of the Florida Statutes.

II. Present Situation:

In December 1992, in response to the disruption of the property insurance market after Hurricane Andrew, the Florida Residential Property and Casualty Joint Underwriting Association (JUA) was created pursuant to s. 627.351(6), F.S., to provide residential property insurance to homeowners, mobile homeowners, tenants, condominium unit owners and, since 1995, condominium associations, apartment buildings, and cooperative associations, who were insurable but unable to obtain coverage through the admitted voluntary market (Ch. 92-345, L.O.F.). The policies provide coverage for all perils covered under a standard residential policy, including windstorm, fire, theft, and liability, subject to underwriting requirements. However, in those geographic areas that are eligible for windstorm coverage from the Florida Windstorm Underwriting Association (FWUA), the JUA policies exclude coverage for windstorm.

The JUA operates under a 13-member board consisting of the Insurance Consumer Advocate, five consumer representatives appointed by the Insurance Commissioner, two insurance industry representatives appointed by the Insurance Commissioner, and five insurance industry representatives designated by the insurance industry.

Premiums for the JUA are required by law to be set in each county at the highest rates charged by the top twenty insurers in the state. In the event of a deficit, the JUA, may impose "regular" assessments against all authorized property insurers, in proportion to their statewide market share of premiums. Regular assessments, in any 1 year, may not exceed the greater of 10 percent of the JUA deficit or 10 percent of the prior year's statewide premium for property insurance. Additionally, the JUA may impose "emergency" assessments which are collected by insurers as surcharges paid by their policyholders. Such assessments are imposed if the JUA experiences a loss in any year that exceeds its cash on hand and the maximum amount has already been obtained from regular assessments. In any 1 year, emergency assessments are limited to the greater of 10 percent of the deficit plus interest and other expenses of debt financing, or 10 percent of the prior year's statewide premium for property insurance plus expenses of debt financing. The JUA board may pledge emergency assessments in order to secure debt financing (the immediate cash needed to pay claims), which assessments would continue until the debt is satisfied.

The number of JUA policies has declined in recent years after reaching a peak of 937,000 policies and $98 billion in insured value in September 1996. As of January 31, 1999, the JUA had 218,142 policies with $33.3 billion in total insured value and an estimated probable maximum loss (PML) of $2.4 billion for a 100-year storm and $6.2 billion for a 250-year storm (utilizing the EQECAT model). In Broward, Dade, and Palm Beach counties alone, the JUA has 200,535 policies or 92 percent of the total, and $31.9 billion in exposure, or 96 percent of the total. By contrast, the Florida Windstorm Underwriting Association has experienced significant growth, from 62,000 policies with $7.5 billion in exposure in 1992, to 496,729 policies with exposure of $90.7 billion as of February 28, 1999.

Representatives with the JUA state that the principal reason there has been such a dramatic reduction in its policy count over the last 3 years is due to the "depopulation program" authorized by the Legislature in 1995 (Ch. 95-276, L.O.F.). Recognizing that the JUA had expanded beyond legislative expectations, the Legislature empowered the JUA to undertake "extraordinary measures" to depopulate the JUA in order to restore a stable and competitive residential property insurance market in this state. Removal of existing policies reduces the JUA's potential for catastrophic losses that require assessments against insurance companies and their policyholders.

Under s. 627.3511, F.S., the JUA can offer take-out bonuses and deficit assessment exemptions which are financial incentives designed to encourage insurers to take over risks insured by the JUA. However, subsection (5)(b) prohibits such incentives to insurers after the number of risks covered by the JUA has dropped below 250,000.

Since early 1996, 31 insurance companies have removed more than 1 million policies from the JUA. Most of the policies taken out have been assigned to one of 20 insurers who received up to $200 per policy and 3-year exemptions from regular assessments for removed policies. The offer of exemptions from deficit assessments the JUA could impose on companies if it incurred a deficit from a hurricane apply to the policies an insurer removes from the JUA and are staggered as follows: 100 percent in the first year, 75 percent in the second year, and 50 percent in the third year.

There is some confusion in the current law as to the amount of money and other incentives the JUA is authorized to offer insurers as take-out bonuses and under what conditions. Under s.

627.3511(2), F.S., the JUA is limited to offering insurers $100 per policy and each take-out plan must include a minimum of 25,000 policies. However, under another provision enacted in the same 1995 law (s. 627.351(6)(g)3.a., F.S.,), the JUA is more generally empowered to adopt programs to reduce new and renewal writings which programs are *in addition* to the specifically delineated incentives outlined is s. 627.3511, F.S. Last year, the JUA approved a take-out incentive plan that provided $150 to $200 per policy bonuses for a specified minimum number of policies taken out of Dade, Broward, and Palm Beach based on this general authority. Due to the legislative intent inherent in s. 627.3511(5)(b), F.S., which prohibits incentives once the policy count is below 250,000, the Board of the JUA determined that it cannot offer *any* bonus incentives once its policy count reached this level.

III. Effect of Proposed Changes:

Section 1. Repeals s. 627.3511(5)(b), F.S., which has the effect of allowing the JUA to offer monetary incentives and assessment exemptions to insurance companies who remove policies from the JUA regardless of the number of policies in the JUA, which is currently prohibited if the JUA policy count is less than 250,000.

Section 2. Provides that the act will take effect upon becoming a law and operates retroactively to March 1, 1999. Two insurance companies have proposals before the JUA board to remove JUA policies this month. If any take-out plans are approved by the JUA on or after March 1, the bill would retroactively authorize the JUA to provide take-out bonuses to such insurers.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurance companies who remove policies from the JUA will benefit by receiving a per policy “bonus” and by receiving assessment exemptions. To the extent that these financial incentives result in more policies taken out of the JUA than would have been taken out otherwise, this will reduce potential assessments against insurers and their policyholders.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.