

# HOUSE BILL REPORT

## HB 2550

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### As Amended by the Senate

**Title:** An act relating to institutions conducting a charitable gift annuity business.

**Brief Description:** Regulating the charitable gift annuity business.

**Sponsors:** Representatives L. Thomas and Wolfe; by request of Insurance Commissioner.

**Brief History:**

**Committee Activity:**

Financial Institutions & Insurance: 1/22/98 [DP].

**Floor Activity:**

Passed House: 2/10/98, 96-0.

Senate Amended.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 11 members: Representatives L. Thomas, Chairman; Smith, Vice Chairman; Zellinsky, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Benson; Constantine; DeBolt; Keiser; Sullivan and Wensman.

**Staff:** Jim Morishima (786-7191).

**Background:** Charitable gift annuity businesses are governed by state law. The commissioner may grant a certificate of exemption to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business that meets several criteria.

The holder of a certificate of exemption must also establish and maintain a reserve fund. The size of this reserve fund must be adequate to cover the future payments under the charity gift annuity contracts. Under no circumstances can the fund be smaller than an amount computed in accordance with the standard of valuation based on the 1971 individual mortality table or any modification thereof as approved by the commissioner.

If the commissioner finds that the aforementioned criteria are not being met, the commissioner can revoke, suspend or refuse to grant a certificate of exemption. In

addition, if the commissioner finds that the holder is violating the insurance code's requirement of good faith and/or fraud provisions, the commissioner can revoke the holder's certificate of exemption.

A certificate of exemption grants the holder exemption from most of the provisions of the insurance code. The holder is not exempt from parts of the insurance code specifically mentioned in the chapter on charitable gift annuity businesses. Currently, the holder is subject to the following provisions in the insurance code:

- (1) the insurance code's requirement that all persons "be actuated by good faith, abstain from deception and practice honesty and equity in all insurance matters;"
- (2) the insurance code's chapter on unfair practices and frauds;
- (3) the insurance code's chapter on hearings and appeals; and
- (4) the insurance code's provision dealing with the enforcement duties of the commissioner.

**Summary of Bill:** In addition to the requirements in the current law, an insurer or institution conducting a charitable gift annuity business must have and maintain minimum unrestricted net assets of \$500,000 in order for the commissioner to grant them a certificate of exemption.

Also, instead of a reserve fund, the holder of a certificate of exemption must establish and maintain a separate trust fund. The size of the trust fund depends on when the holder issued its charitable gift annuity contracts. For contracts issued prior to July 1, 1998, the amount cannot be less than an amount computed in accordance with the standard of valuation based on the 1971 individual annuity mortality table. The commissioner can no longer approve a modification of this table. For contracts issued on or after July 1, 1998, the amount cannot be less than an amount calculated according to the standards set forth in the insurance code for other annuities. The holder must also have a surplus of 25 percent of the combined amounts as calculated above. The assets in the trust fund must:

- (1) be held solely for the benefit of Washington annuitants;
- (2) be segregated from the other funds of the holder;
- (3) be invested under the same laws as domestic life insurance companies; and
- (4) be exempt from any liabilities of the holder.

The commissioner can revoke, suspend, or refuse to grant a certificate of exemption if allowing the insurer or institution to continue to issue annuities would be hazardous to annuity contract holders and the people of the state. The commissioner can levy fines in addition to or in lieu of revoking, suspending, or refusing to grant a certificate of exemption.

The holder of a certificate of exemption is subject to the insurance code's chapter dealing with mergers, rehabilitation, and liquidation. The holder also cannot transact a variable annuity business.

**EFFECT OF SENATE AMENDMENT(S):** The assets in the trust fund no longer must be held solely for the benefit of Washington annuitants. The assets in the trust fund no longer must be invested under the same laws as domestic life insurance companies but must be invested under a prudent non-speculative standard for similar enterprise. Investments must be of sufficient value, liquidity, and diversity to meet outstanding obligations. The amount of surplus that must be in the trust fund is changed from 25 percent to 10 percent. The requirement that an institution with an existing exemption must establish the trust fund by December 31, 1998, is removed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The number of organizations conducting charitable gift annuity businesses has increased over the years necessitating the greater protection for citizens that this bill provides.

**Testimony Against:** None.

**Testified:** John Woodall, Office of the Insurance Commissioner (pro); Jim Tompkins, Office of the Insurance Commissioner (pro).