

2 **HB 2550** - S COMM AMD

3 By Committee on Financial Institutions, Insurance & Housing

4 ADOPTED 3/4/98

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 48.38.010 and 1979 c 130 s 6 are each amended to read
8 as follows:

9 The commissioner may grant a certificate of exemption to any
10 insurer or educational, religious, charitable, or scientific
11 institution conducting a charitable gift annuity business:

12 (1) Which is organized and operated exclusively as, or for the
13 purpose of aiding, an educational, religious, charitable, or scientific
14 institution which is organized as a nonprofit organization without
15 profit to any person, firm, partnership, association, corporation, or
16 other entity;

17 (2) Which possesses a current tax exempt status under the laws of
18 the United States;

19 (3) Which serves such purpose by issuing charitable gift annuity
20 contracts only for the benefit of such educational, religious,
21 charitable, or scientific institution;

22 (4) Which appoints the insurance commissioner as its true and
23 lawful attorney upon whom may be served lawful process in any action,
24 suit, or proceeding in any court, which appointment shall be
25 irrevocable, shall bind the insurer or institution or any successor in
26 interest, shall remain in effect as long as there is in force in this
27 state any contract made or issued by the insurer or institution, or any
28 obligation arising therefrom, and shall be processed in accordance with
29 RCW 48.05.210;

30 (5) Which is fully and legally organized and qualified to do
31 business and has been actively doing business under the laws of the
32 state of its domicile for a period of at least three years prior to its
33 application for a certificate of exemption;

34 (6) Which has and maintains minimum unrestricted net assets of five
35 hundred thousand dollars. "Unrestricted net assets" means the excess

1 of total assets over total liabilities that are neither permanently
2 restricted nor temporarily restricted by donor-imposed stipulations;
3 (7) Which files with the insurance commissioner its application for
4 a certificate of exemption showing:
5 (a) Its name, location, and organization date;
6 (b) The kinds of charitable annuities it proposes to offer;
7 (c) A statement of the financial condition, management, and affairs
8 of the organization and any affiliate thereof, as that term is defined
9 in RCW (~~(48.31A.010)~~) 48.31B.005, on a form satisfactory to, or
10 furnished by the insurance commissioner;
11 (d) Such other documents, stipulations, or information as the
12 insurance commissioner may reasonably require to evidence compliance
13 with the provisions of this chapter;
14 (~~((7))~~) (8) Which subjects itself and any affiliate thereof, as
15 that term is defined in RCW (~~(48.31A.010)~~) 48.31B.005, to periodic
16 examinations conducted under chapter 48.03 RCW as may be deemed
17 necessary by the insurance commissioner;
18 (~~((8))~~) (9) Which files with the insurance commissioner for the
19 commissioner's advance approval a copy of any policy or contract form
20 to be offered or issued to residents of this state. The grounds for
21 disapproval of the policy or contract form shall be those set forth in
22 RCW 48.18.110; and
23 (~~((9))~~) (10) Which:
24 (a) Files with the insurance commissioner on or before March 1 of
25 each year a copy of its annual statement prepared pursuant to the laws
26 of its state of domicile, as well as such other financial material as
27 may be requested, including the annual statement or other such
28 financial materials as may be requested relating to any affiliate, as
29 that term is defined in RCW (~~(48.31A.010)~~) 48.31B.005; and
30 (b) Coincident with the filing of its annual statement, pays an
31 annual filing fee of twenty-five dollars plus five dollars for each
32 charitable gift annuity contract written for residents of this state
33 during the previous calendar year; and
34 (c) Which includes on or attaches to the first page of the annual
35 statement the statement of a qualified actuary setting forth the
36 actuary's opinion relating to annuity reserves and other actuarial
37 items. "Qualified actuary" as used in this subsection means a member
38 in good standing of the American academy of actuaries or a person who

1 has otherwise demonstrated actuarial competence to the satisfaction of
2 the insurance regulatory official of the domiciliary state.

3 **Sec. 2.** RCW 48.38.020 and 1979 c 130 s 7 are each amended to read
4 as follows:

5 (1) Upon granting to such insurer or institution under RCW
6 48.38.010 a certificate of exemption to conduct a charitable gift
7 annuity business, the insurance commissioner shall require it to
8 establish and maintain a ~~((reserve))~~ separate reserve fund adequate to
9 meet the future payments under its charitable gift annuity contracts
10 ~~((and, in any event, the reserve fund shall))~~.

11 (2) The assets of the separate reserve fund:

12 (a) Shall be held legally and physically segregated from the other
13 assets of the certificate of exemption holder;

14 (b) Shall be invested in the same manner that persons of reasonable
15 prudence, discretion, and intelligence exercise in the management of a
16 like enterprise, not in regard to speculating but in regard to the
17 permanent disposition of their funds, considering the probable income
18 as well as the probable safety of their capital. Investments shall be
19 of sufficient value, liquidity, and diversity to assure the insurer or
20 institution's ability to meet its outstanding obligations; and

21 (c) Shall not be liable for any debts of the insurer or institution
22 holding a certificate of exemption under this chapter, other than those
23 incurred pursuant to the issuance of charitable gift annuities.

24 (3) The amount of the separate reserve fund shall be:

25 (a) For contracts issued prior to July 1, 1998, not ((be)) less
26 than an amount computed in accordance with the standard of valuation
27 based on the 1971 individual annuity mortality table(~~(, or any~~
28 modification of this table approved by the insurance commissioner,))
29 with six percent interest for single premium immediate annuity
30 contracts and four percent interest for all other individual annuity
31 contracts;

32 (b) For contracts issued on or after July 1, 1998, in an amount not
33 less than the aggregate reserves calculated according to the standards
34 set forth in RCW 48.74.030 for other annuities with no cash settlement
35 options;

36 (c) Plus a surplus of ten percent of the combined amounts under (a)
37 and (b) of this subsection.

1 (4) The general assets of the insurer or institution holding a
2 certificate of exemption under this chapter shall be liable for the
3 payment of annuities to the extent that the separate reserve fund is
4 inadequate.

5 ~~((2))~~ (5) For any failure on its part to establish and maintain
6 the ~~(reserve))~~ separate reserve fund, the insurance commissioner shall
7 revoke its certificate of exemption.

8 **Sec. 3.** RCW 48.38.040 and 1979 c 130 s 9 are each amended to read
9 as follows:

10 (1) An insurer or institution holding a certificate of exemption
11 under this chapter shall be exempt from all other provisions of this
12 title except as specifically enumerated in this chapter by reference.

13 (2) An insurer or institution holding a certificate of exemption
14 under this chapter is subject to chapter 48.31 RCW.

15 **Sec. 4.** RCW 48.38.050 and 1979 c 130 s 10 are each amended to read
16 as follows:

17 (1) The insurance commissioner may refuse to grant, or may revoke
18 or suspend, a certificate of exemption if the insurance commissioner
19 finds that the insurer or institution does not meet the requirements of
20 this chapter or if the insurance commissioner finds that the insurer or
21 institution has violated RCW 48.01.030 or any provisions of chapter
22 48.30 RCW or is found by the insurance commissioner to be in such
23 condition that its further issuance of charitable gift annuities would
24 be hazardous to annuity contract holders and the people of this state.

25 (2) After hearing or with the consent of the insurer or institution
26 and in addition to or in lieu of the suspension, revocation, or refusal
27 to renew any certificate of exemption, the commissioner may levy a fine
28 upon the insurer or institution in an amount not more than ten thousand
29 dollars. The order levying such a fine shall specify the period within
30 which the fine shall be fully paid and which period shall not be less
31 than fifteen nor more than thirty days from the date of the order.
32 Upon failure to pay such a fine when due the commissioner shall revoke
33 the certificate of exemption of the insurer or institution if not
34 already revoked, and the fine shall be recovered in a civil action
35 brought in behalf of the commissioner by the attorney general. Any
36 fine so collected shall be paid by the commissioner to the state
37 treasurer for the account of the general fund.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.38 RCW
2 to read as follows:

3 An insurer or institution holding a certificate of exemption to
4 issue charitable gift annuities under this chapter shall not transact
5 or be authorized to transact a variable annuity business as described
6 in chapter 48.18A RCW.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.38 RCW
8 to read as follows:

9 The commissioner may adopt rules to implement and administer this
10 chapter.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.38 RCW
12 to read as follows:

13 After June 30, 1998, an insurer or institution which does not have
14 the minimum unrestricted net assets required by RCW 48.38.010(6) may
15 not issue any new charitable gift annuities until the insurer or
16 institution has and maintains the minimum unrestricted net assets
17 required by RCW 48.38.010(6).

18 **Sec. 8.** RCW 48.31.020 and 1989 c 151 s 1 are each amended to read
19 as follows:

20 For the purposes of this chapter, other than as to RCW 48.31.010,
21 and in addition to persons included under RCW (~~48.31.110~~) 48.99.010,
22 the term "insurer" shall be deemed to include an insurer authorized
23 under chapter 48.05 RCW, an insurer or institution holding a
24 certificate of exemption under RCW 48.38.010, a health care service
25 contractor registered under chapter 48.44 RCW, and a health maintenance
26 organization registered under chapter 48.46 RCW, as well as all persons
27 engaged as, or purporting to be engaged as insurers, institutions
28 issuing charitable gift annuities, health care service contractors, or
29 health maintenance organizations in this state, and to persons in
30 process of organization to become insurers, institutions issuing
31 charitable gift annuities, health care service contractors, or health
32 maintenance organizations."

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4 On page 1, line 2 of the title, after "business;" strike the
5 remainder of the title and insert "amending RCW 48.38.010, 48.38.020,
6 48.38.040, 48.38.050, and 48.31.020; and adding new sections to chapter
7 48.38 RCW."

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