
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1433 Session of
1996

INTRODUCED BY HOLL, FUMO, MUSTO, CORMAN, GREENLEAF, LAVALLE AND
WENGER, MARCH 8, 1996

AS AMENDED ON THIRD CONSIDERATION, MAY 6, 1996

AN ACT

1 Exempting the issuance by a qualified charity of a qualified
2 charitable gift annuity from regulation under insurance laws.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Charitable
7 Gift Annuity Exemption Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Qualified charitable gift annuity." An annuity which:

13 (1) Qualifies as a "charitable gift annuity" under
14 section 501(m)(5) of the Internal Revenue Code of 1986
15 (Public Law 99-514, 26, U.S.C. § 501(m)(5)) or any successor
16 provision.

17 (2) Contains in a written agreement substantially all of

1 the following provisions:

2 (i) "The parties acknowledge that, as of the date <—
3 hereof, the fair market value of the property transferred
4 to (the qualified charity) is substantially in excess of
5 the fair market value of the annuity and that the
6 difference between those values constitutes a gift by the
7 donor to (the qualified charity) for its charitable
8 purposes." <—

9 (ii) "(The qualified charity) has advised the donor <—
10 that a charitable gift annuity is not designed primarily
11 as an investment but rather as a charitable gift." <—

12 (iii) "The promise to pay the annuity is not <—
13 insurance under the laws of Pennsylvania, is not subject
14 to regulation by the Insurance Department and is not
15 protected by any State guaranty fund or other protective
16 device." <—

17 (IV) A STATEMENT AS TO WHOM THE DONOR MAY CONTACT TO <—
18 OBTAIN A COPY OF THE FOLLOWING INFORMATION:

19 (A) THE ORGANIZATION'S STATUS UNDER SECTION
20 170(C) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC
21 LAW 99-514, 26 U.S.C. § 170(C)) OR ANY SUCCESSOR
22 PROVISIONS; AND

23 (B) FINANCIAL STATEMENTS FILED WITH A
24 GOVERNMENTAL AGENCY OR AUDITED FINANCIAL STATEMENTS
25 FROM THE CHARITY SHOWING THAT THE CHARITY HAS
26 UNRESTRICTED AND UNENCUMBERED ASSETS IN THE FORM OF
27 CASH, CASH EQUIVALENTS OR PUBLICLY-TRADED SECURITIES
28 OF AT LEAST \$100,000 PLUS ONE-HALF OF THE PRINCIPAL
29 VALUE OF ANY ANNUITIES ISSUED BY THE ORGANIZATION AND
30 THEN IN EFFECT.

1 (V) THE DATE THE QUALIFIED CHARITY OR ITS
2 PREDECESSOR CAME INTO EXISTENCE, AND A STATEMENT THAT
3 QUALIFIED CHARITIES MUST HAVE BEEN IN EXISTENCE FOR AT
4 LEAST THREE YEARS.

5 (VI) A DESCRIPTION OF THE BASIS UPON WHICH THE
6 ORGANIZATION QUALIFIES AS A QUALIFIED CHARITY.

7 "Qualified charity." An organization which on the date a
8 qualified charitable gift annuity is issued meets all of the
9 following criteria:

10 (1) Is an organization described in section 170(c) of
11 the Internal Revenue Code of 1986 (Public Law 99-514, 26
12 U.S.C. § 170(c)) or any successor provision.

13 (2) Has been in continuous existence for at least three
14 years or is the successor to or an entity controlled by such
15 organization.

16 (3) Has unrestricted and unencumbered assets in the form
17 of cash, cash equivalents or publicly traded securities of at
18 least \$100,000 plus one-half of the principal value of any
19 annuities issued by the organization and then in effect.

20 (4) IS ONE OF THE FOLLOWING TYPES OF ORGANIZATIONS: ←

21 (I) EDUCATIONAL INSTITUTIONS SUBJECT TO REGULATION
22 BY THE DEPARTMENT OF EDUCATION;

23 (II) HOSPITALS SUBJECT TO REGULATION BY THE
24 DEPARTMENT OF HEALTH OR THE DEPARTMENT OF PUBLIC WELFARE;
25 OR

26 (III) CHARITABLE ORGANIZATIONS WHICH ARE REQUIRED TO
27 OR DO FILE A REGISTRATION STATEMENT WITH THE DEPARTMENT
28 OF STATE UNDER THE PROVISIONS OF THE ACT OF DECEMBER 19,
29 1990 (P.L.1200, NO.202), KNOWN AS THE SOLICITATION OF
30 FUNDS FOR CHARITABLE PURPOSES ACT.

1 Section 3. Exemption from regulation.

2 The laws of this Commonwealth regulating issuance, including,
3 but not limited to, the act of May 17, 1921 (P.L.682, No.284),
4 known as The Insurance Company Law of 1921, and the act of May
5 17, 1921 (P.L.789, No.285), known as The Insurance Department
6 Act of 1921, shall not apply to the issuance by a qualified
7 charity of a qualified charitable gift annuity.

8 Section 4. Previously issued annuities.

9 A charitable gift annuity issued prior to the effective date
10 of this act shall be deemed to be a qualified charitable gift
11 annuity if both of the following conditions are met:

12 (1) The charitable gift annuity qualified as a
13 charitable contribution under the provisions of the Internal
14 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et
15 seq.) governing charitable deductions at the time the
16 charitable gift annuity was issued.

17 (2) The issuing organization was a qualified charity at
18 the time the charitable gift annuity was issued or becomes a
19 qualified charity within one year of the effective date of
20 this act.

21 Section 5. Effective date.

22 This act shall take effect in 60 days.