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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1433** Session of  
1996

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

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AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 26, 1996

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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.

1 (2) Contains in a written agreement substantially all of  
2 the following provisions:

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

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

13 (iii) The promise to pay the annuity is not  
14 insurance under the laws of Pennsylvania, is not subject  
15 to regulation by the Insurance Department and is not  
16 protected by ~~any State guaranty fund~~ THE PENNSYLVANIA <—  
17 LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION UNDER  
18 ARTICLE XVII OF THE ACT OF MAY 17, 1921 (P.L.682,  
19 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, or  
20 other protective device.

21 (iv) A statement as to whom the donor may contact to  
22 obtain a copy of the following information:

23 (A) the organization's status under section  
24 170(c) of the Internal Revenue Code of 1986 (Public  
25 Law 99-514, 26 U.S.C. § 170(c)) or any successor  
26 provisions; and

27 (B) financial statements filed with a  
28 governmental agency or audited financial statements  
29 from the charity showing that the charity has  
30 unrestricted and unencumbered assets in the form of

1 cash, cash equivalents or publicly-traded securities  
2 of at least \$100,000 plus one-half of the principal  
3 value of any annuities issued by the organization and  
4 then in effect.

5 (v) The date the qualified charity or its  
6 predecessor came into existence, and a statement that  
7 qualified charities must have been in existence for at  
8 least three years.

9 (vi) A description of the basis upon which the  
10 organization qualifies as a qualified charity.

11 "Qualified charity." An organization which on the date a  
12 qualified charitable gift annuity is issued meets all of the  
13 following criteria:

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

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

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

24 (4) Is one of the following types of organizations:

25 ~~(i) educational institutions subject to regulation~~ <—  
26 ~~by the Department of Education;~~

27 ~~(ii) hospitals subject to regulation by the~~  
28 ~~Department of Health or the Department of Public Welfare;~~

29 ~~or~~

30 (I) EDUCATIONAL INSTITUTIONS, THE CURRICULA OF WHICH <—

1 IN WHOLE OR IN PART ARE REGISTERED WITH OR APPROVED BY  
2 THE DEPARTMENT OF EDUCATION, EITHER DIRECTLY OR BY  
3 ACCEPTANCE OF ACCREDITATION BY AN ACCREDITING BODY  
4 RECOGNIZED BY THE DEPARTMENT OF EDUCATION, AND ANY  
5 AUXILIARY ASSOCIATIONS, FOUNDATIONS AND SUPPORT GROUPS  
6 WHICH ARE DIRECTLY RESPONSIBLE TO EDUCATIONAL  
7 INSTITUTIONS.

8 (II) HOSPITALS WHICH ARE SUBJECT TO REGULATION BY  
9 THE DEPARTMENT OF HEALTH OR THE DEPARTMENT OF PUBLIC  
10 WELFARE AND THE HOSPITAL FOUNDATION, IF ANY, WHICH IS AN  
11 INTEGRAL PART THEREOF.

12 (iii) charitable organizations which are required to  
13 or do file a registration statement with the Department  
14 of State under the provisions of the act of December 19,  
15 1990 (P.L.1200, No.202), known as the Solicitation of  
16 Funds for Charitable Purposes Act.

17 (IV) SENIOR CITIZEN CENTERS AND NURSING HOMES WHICH ←  
18 ARE NONPROFIT AND CHARITABLE AND WHICH VOLUNTARILY FILE A  
19 REGISTRATION STATEMENT WITH THE DEPARTMENT OF STATE UNDER  
20 THE PROVISIONS OF THE ACT OF DECEMBER 19, 1990 (P.L.1200,  
21 NO.202), KNOWN AS THE SOLICITATION OF FUNDS FOR  
22 CHARITABLE PURPOSES ACT.

23 (V) ANY BONA FIDE DULY CONSTITUTED RELIGIOUS  
24 INSTITUTIONS AND SUCH SEPARATE GROUPS OR CORPORATIONS  
25 WHICH FORM AN INTEGRAL PART OF RELIGIOUS INSTITUTIONS,  
26 PROVIDED THAT:

27 (A) SUCH RELIGIOUS INSTITUTIONS, GROUPS OR  
28 CORPORATIONS ARE TAX EXEMPT PURSUANT TO THE INTERNAL  
29 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §  
30 1 ET SEQ.).

1 (B) NO PART OF THEIR NET INCOME INURES TO THE  
2 DIRECT BENEFIT OF ANY INDIVIDUAL; AND

3 (C) THEIR CONDUCT IS PRIMARILY SUPPORTED BY  
4 GOVERNMENT GRANTS OR CONTRACTS, FUNDS SOLICITED FROM  
5 THEIR OWN MEMBERSHIPS, CONGREGATIONS OR PREVIOUS  
6 DONORS AND FEES CHARGED FOR SERVICES RENDERED.

7 (VI) ANY CORPORATION ESTABLISHED BY AN ACT OF  
8 CONGRESS THAT IS REQUIRED BY FEDERAL LAW TO SUBMIT ANNUAL  
9 REPORTS OF ITS ACTIVITIES TO CONGRESS CONTAINING ITEMIZED  
10 ACCOUNTS OF ALL RECEIPTS AND EXPENDITURES AFTER BEING  
11 FULLY AUDITED BY THE DEPARTMENT OF DEFENSE.

12 Section 3. Exemption from regulation.

13 The laws of this Commonwealth regulating issuance, including,  
14 but not limited to, the act of May 17, 1921 (P.L.682, No.284),  
15 known as The Insurance Company Law of 1921, and the act of May  
16 17, 1921 (P.L.789, No.285), known as The Insurance Department  
17 Act of 1921, shall not apply to the issuance by a qualified  
18 charity of a qualified charitable gift annuity.

19 Section 4. Previously issued annuities.

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

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

28 (2) The issuing organization was a qualified charity at  
29 the time the charitable gift annuity was issued or becomes a  
30 qualified charity within one year of the effective date of

1       this act.

2   Section 5.   Effective date.

3       This act shall take effect in 60 days.