

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2550

55th Legislature
1998 Regular Session

Passed by the House March 9, 1998
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1998
Yeas 42 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2550** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2550

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Representatives L. Thomas and Wolfe; by request of Insurance Commissioner

Read first time 01/15/98. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to institutions conducting a charitable gift
2 annuity business; amending RCW 48.38.010, 48.38.020, 48.38.040,
3 48.38.050, and 48.31.020; and adding new sections to chapter 48.38 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.38.010 and 1979 c 130 s 6 are each amended to read
6 as follows:

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

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

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

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

1 (4) Which appoints the insurance commissioner as its true and
2 lawful attorney upon whom may be served lawful process in any action,
3 suit, or proceeding in any court, which appointment shall be
4 irrevocable, shall bind the insurer or institution or any successor in
5 interest, shall remain in effect as long as there is in force in this
6 state any contract made or issued by the insurer or institution, or any
7 obligation arising therefrom, and shall be processed in accordance with
8 RCW 48.05.210;

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

13 (6) Which has and maintains minimum unrestricted net assets of five
14 hundred thousand dollars. "Unrestricted net assets" means the excess
15 of total assets over total liabilities that are neither permanently
16 restricted nor temporarily restricted by donor-imposed stipulations;

17 (7) Which files with the insurance commissioner its application for
18 a certificate of exemption showing:

19 (a) Its name, location, and organization date;

20 (b) The kinds of charitable annuities it proposes to offer;

21 (c) A statement of the financial condition, management, and affairs
22 of the organization and any affiliate thereof, as that term is defined
23 in RCW (~~48.31A.010~~) 48.31B.005, on a form satisfactory to, or
24 furnished by the insurance commissioner;

25 (d) Such other documents, stipulations, or information as the
26 insurance commissioner may reasonably require to evidence compliance
27 with the provisions of this chapter;

28 (~~(7)~~) (8) Which subjects itself and any affiliate thereof, as
29 that term is defined in RCW (~~48.31A.010~~) 48.31B.005, to periodic
30 examinations conducted under chapter 48.03 RCW as may be deemed
31 necessary by the insurance commissioner;

32 (~~(8)~~) (9) Which files with the insurance commissioner for the
33 commissioner's advance approval a copy of any policy or contract form
34 to be offered or issued to residents of this state. The grounds for
35 disapproval of the policy or contract form shall be those set forth in
36 RCW 48.18.110; and

37 (~~(9)~~) (10) Which:

38 (a) Files with the insurance commissioner on or before March 1 of
39 each year a copy of its annual statement prepared pursuant to the laws

1 of its state of domicile, as well as such other financial material as
2 may be requested, including the annual statement or other such
3 financial materials as may be requested relating to any affiliate, as
4 that term is defined in RCW ((48.31A.010)) 48.31B.005; and

5 (b) Coincident with the filing of its annual statement, pays an
6 annual filing fee of twenty-five dollars plus five dollars for each
7 charitable gift annuity contract written for residents of this state
8 during the previous calendar year; and

9 (c) Which includes on or attaches to the first page of the annual
10 statement the statement of a qualified actuary setting forth the
11 actuary's opinion relating to annuity reserves and other actuarial
12 items. "Qualified actuary" as used in this subsection means a member
13 in good standing of the American academy of actuaries or a person who
14 has otherwise demonstrated actuarial competence to the satisfaction of
15 the insurance regulatory official of the domiciliary state.

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

18 (1) Upon granting to such insurer or institution under RCW
19 48.38.010 a certificate of exemption to conduct a charitable gift
20 annuity business, the insurance commissioner shall require it to
21 establish and maintain a ((reserve)) separate reserve fund adequate to
22 meet the future payments under its charitable gift annuity contracts
23 ((and, in any event, the reserve fund shall)).

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

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

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

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

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

1 (a) For contracts issued prior to July 1, 1998, not ((be)) less
2 than an amount computed in accordance with the standard of valuation
3 based on the 1971 individual annuity mortality table((, —or—any
4 modification of this table approved by the insurance commissioner,))
5 with six percent interest for single premium immediate annuity
6 contracts and four percent interest for all other individual annuity
7 contracts;

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

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

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

18 ~~((+2))~~ (5) For any failure on its part to establish and maintain
19 the ((reserve)) separate reserve fund, the insurance commissioner shall
20 revoke its certificate of exemption.

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

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

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

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

30 (1) The insurance commissioner may refuse to grant, or may revoke
31 or suspend, a certificate of exemption if the insurance commissioner
32 finds that the insurer or institution does not meet the requirements of
33 this chapter or if the insurance commissioner finds that the insurer or
34 institution has violated RCW 48.01.030 or any provisions of chapter
35 48.30 RCW or is found by the insurance commissioner to be in such
36 condition that its further issuance of charitable gift annuities would
37 be hazardous to annuity contract holders and the people of this state.

1 (2) After hearing or with the consent of the insurer or institution
2 and in addition to or in lieu of the suspension, revocation, or refusal
3 to renew any certificate of exemption, the commissioner may levy a fine
4 upon the insurer or institution in an amount not more than ten thousand
5 dollars. The order levying such a fine shall specify the period within
6 which the fine shall be fully paid and which period shall not be less
7 than fifteen nor more than thirty days from the date of the order.
8 Upon failure to pay such a fine when due the commissioner shall revoke
9 the certificate of exemption of the insurer or institution if not
10 already revoked, and the fine shall be recovered in a civil action
11 brought in behalf of the commissioner by the attorney general. Any
12 fine so collected shall be paid by the commissioner to the state
13 treasurer for the account of the general fund.

14 NEW SECTION. Sec. 5. A new section is added to chapter 48.38 RCW
15 to read as follows:

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

20 NEW SECTION. Sec. 6. A new section is added to chapter 48.38 RCW
21 to read as follows:

22 The commissioner may adopt rules to implement and administer this
23 chapter.

24 NEW SECTION. Sec. 7. A new section is added to chapter 48.38 RCW
25 to read as follows:

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

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

33 For the purposes of this chapter, other than as to RCW 48.31.010,
34 and in addition to persons included under RCW ((48.31.110)) 48.99.010,
35 the term "insurer" shall be deemed to include an insurer authorized

1 under chapter 48.05 RCW, an insurer or institution holding a
2 certificate of exemption under RCW 48.38.010, a health care service
3 contractor registered under chapter 48.44 RCW, and a health maintenance
4 organization registered under chapter 48.46 RCW, as well as all persons
5 engaged as, or purporting to be engaged as insurers, institutions
6 issuing charitable gift annuities, health care service contractors, or
7 health maintenance organizations in this state, and to persons in
8 process of organization to become insurers, institutions issuing
9 charitable gift annuities, health care service contractors, or health
10 maintenance organizations.

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