
SENATE BILL 6393

State of Washington

55th Legislature

1998 Regular Session

By Senators Winsley and Prentice; by request of Insurance Commissioner

Read first time 01/16/98. Referred to Committee on Financial Institutions, Insurance & Housing.

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 trust 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 trust fund:

25 (a) Shall be held solely for the benefit of Washington annuitants;

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

28 (c) Shall be invested in the same manner and subject to the same
29 investment laws applicable to domestic life insurance companies under
30 chapters 48.12 and 48.13 RCW; and

31 (d) Shall not be liable for any debts of the insurer or institution
32 holding a certificate of exemption under this chapter, other than those
33 incurred pursuant to the issuance of charitable gift annuities to
34 residents of the state of Washington.

35 (3) The amount of the separate trust fund shall be:

36 (a) For contracts issued prior to July 1, 1998, not ((be)) less
37 than an amount computed in accordance with the standard of valuation
38 based on the 1971 individual annuity mortality table((, or any

1 ~~modification of this table approved by the insurance commissioner,))~~
2 with six percent interest for single premium immediate annuity
3 contracts and four percent interest for all other individual annuity
4 contracts;

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

9 (c) Plus a surplus of twenty-five percent of the combined amounts
10 under (a) and (b) of this subsection.

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

15 ~~((+2+))~~ (5) For any failure on its part to establish and maintain
16 the (~~reserve~~) separate fund, the insurance commissioner shall revoke
17 its certificate of exemption.

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

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

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

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

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

35 (2) After hearing or with the consent of the insurer or institution
36 and in addition to or in lieu of the suspension, revocation, or refusal
37 to renew any certificate of exemption, the commissioner may levy a fine

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

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

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

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

19 The commissioner may adopt rules to implement and administer this
20 chapter.

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

23 (1) An insurer or institution which, on the effective date of this
24 act, holds a certificate of exemption under this chapter, must
25 establish the separate trust fund required by RCW 48.38.020 by December
26 31, 1998.

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

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

34 For the purposes of this chapter, other than as to RCW 48.31.010,
35 and in addition to persons included under RCW ((48.31.110)) 48.99.010,

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

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