

# HOUSE BILL REPORT

## SHB 2160

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### As Amended by the Senate

**Title:** An act relating to the separate reserve fund maintained by a charitable gift annuity business.

**Brief Description:** Regulating charitable gift annuity businesses.

**Sponsors:** By House Committee on Financial Institutions & Insurance (originally sponsored by Representative McIntire).

#### **Brief History:**

##### **Committee Activity:**

Financial Institutions & Insurance: 1/18/02, 1/25/02 [DPS].

##### **Floor Activity:**

Passed House: 2/13/02, 96-0.

Senate Amended.

Passed Senate: 3/2/02, 45-1.

#### **Brief Summary of Substitute Bill**

- A charitable organization involved in the charitable gift annuity business may be exempted from the reserve fund requirement, provided the organization purchases a single premium commercial life annuity sufficient to cover the organization's payment obligations under its annuity contracts.
- An organization with a certificate of exemption cannot offer a commission for the solicitation of a particular charitable gift annuity.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cooper, Chair; Benson, Ranking Minority Member; Barlean, Cairnes, Hatfield, Mielke, Miloscia, Roach, Santos and Simpson.

**Staff:** Thamas Osborn (786-7129).

#### **Background:**

Many nonprofit charitable, educational, religious, and scientific organizations encourage

donations by offering donors the option of receiving a "charitable gift annuity" in return for a gift of property, stock, cash or other asset. After making a donation, the recipient of such an annuity receives periodic cash payments for life from the organization. The donor thus gains a guaranteed income for life and often obtains tax advantages as well. The organization, in turn, obtains the benefit of the investment value of the donated asset.

The State Insurance Commissioner (the commissioner) regulates the operation of nonprofit organizations and insurers involved in the charitable annuity business. The commissioner may exempt a charitable annuity business from most of the regulatory requirements of the insurance code, provided the business meets specified statutory criteria: e.g., the maintenance of specified minimum net assets, tax exempt status, organized as a nonprofit organization, etc. If the statutory criteria are satisfied, the commissioner may issue a so-called "certificate of exemption."

Under current law, an entity which has been granted a certificate of exemption as a charitable gift annuity business must maintain a separate reserve fund adequate to meet future payments owed under its annuity contracts. The amount of the reserve fund is determined via a formula and the maintenance of the fund is subject to regulation by the commissioner.

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### **Summary of Substitute Bill:**

Reserve fund exemption: Under certain circumstances, a charitable organization or insurer may be partially or totally exempted from the requirement that it maintain a separate reserve fund adequate to meet its future contractual obligations with respect to charitable annuity payments. In lieu of maintaining such a reserve fund, a qualified organization may purchase from a licensed insurance company a single premium life annuity that is sufficient to cover all or part of the organization's obligations under its charitable gift annuity contracts.

Ban on commissions: In order to hold a "certificate of exemption" an organization must refrain from paying a commission or other compensation to any person or organization that is based upon the solicitation, sale, issuance, or value of a particular gift annuity received by that organization.

Insurer requirements: The insurer issuing the single premium life annuity must: a) hold a certificate of authority in this state; b) be licensed in the state in which the charitable organization has its principle office; and c) be licensed in the state in which the annuity is issued.

Required documentation: To be exempted from the reserve fund requirement, an organization must: a) file with the commissioner a copy of the single premium life annuity, along with other documentation; and b) obtain a written agreement among the

parties stipulating that in the event the organization cannot make the required annuity payments the annuity recipients shall receive payments directly from the insurer.

Commissioner's authority: The authority of the commissioner is expanded with respect to the issuance, revocation, or suspension of a certificate of exemption.

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**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment deletes the prohibition against a charitable organization paying a commission or other compensation to any person where the compensation is based upon the solicitation, sale, issuance, or value of a particular gift annuity received by that organization.

Also deleted are the provisions expanding the authority of the commissioner to refuse to grant, revoke, or suspend certificates of exemption.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (on substitute bill) The substitute bill will be beneficial to charitable organizations and should be passed by the committee. It will make it much easier for charities to meet the statutory reserve requirements and will prevent commissions from being paid for soliciting specific charitable gift annuities. However, the ban on commissions does not prevent charities from having salaried staff that solicit such gift annuities, provided that compensation is not tied to obtaining any one specific gift annuity. The bill does not have any fiscal impact.

**Testimony Against:** None.

**Testified:** (In support of substitute bill) Carrie Tellefson and John Woodall, Office of the Insurance Commissioner; and Howard Johnson, Washington Planned Giving Council.