Senate

General Assembly **File No. 372**

February Session, 2008 Substitute Senate Bill No. 480

Senate, April 1, 2008

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CHARITABLE GIFT ANNUITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-1031 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[(a) The issuance of a qualified charitable gift annuity shall not constitute engaging in the business of insurance in this state.

(b) A charitable gift annuity issued before October 1, 1999, is a qualified charitable gift annuity for the purposes of sections 38a-1030 to 38a-1034, inclusive, and the issuance of that charitable gift annuity shall not constitute engaging in the business of insurance in this state.**]**

(a) Each charitable organization that issues a charitable gift annuity or qualified charitable gift annuity shall, prior to entering into an agreement for the issuance of such annuity, provide to the donor a separate written disclosure statement describing the nature and scope of such annuity in conspicuous type.

(b) The Insurance Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to establish the content and format of such disclosure statement.

Sec. 2. Section 38a-1032 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) When entering into an agreement for a qualified charitable gift annuity, the charitable organization shall disclose to the donor in writing in the annuity agreement that a qualified charitable gift annuity is not insurance under the laws of this state and is not **[**subject to regulation by the Insurance Commissioner or**]** protected by an insurance guaranty association, and shall include a separate disclosure statement, as set forth in section 38a-1031, as amended by this act.

(b) The notice provisions required by this section shall be in a separate paragraph in a print size no smaller than that employed in the annuity agreement generally.

Sec. 3. Section 38a-1034 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[The failure of a charitable organization to comply with the**]** If a charitable organization fails to comply with the notice requirements imposed under section 38a-1032, as amended by this act, or 38a-1033, **[**shall not prevent a charitable gift annuity that otherwise meets the requirements of sections 38a-1030 to 38a-1034, inclusive, from constituting a qualified charitable gift annuity. The**]** the Insurance Commissioner may **[**enforce performance of the requirements of sections 38a-1032 and 38a-1033 by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with the requirements of sections 38a-1032 and 38a-1033. The commissioner may**]** fine the charitable organization in an amount not to exceed **[**one**]** ten thousand dollars per qualified charitable gift annuity agreement issued until such time as the charitable organization complies with the requirements of sections 38a-1032, as amended by this act, and 38a-1033.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2008*	38a-1031
Sec. 2	*October 1, 2008*	38a-1032
Sec. 3	*October 1, 2008*	38a-1034

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 $	FY 10 $
Insurance Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a potential minimal revenue gain to the General Fund from increased fines related to disclosure violations. The bill revises the Department of Insurance (DOI) commissioner's regulatory oversight of charitable gift annuities and disclosure requirements that charitable organizations must follow when issuing them. The fine for failure to comply with notice requirements would be increased, by the provisions of the bill, from $1,000 to $10,000 per qualified charitable gift annuity agreement. It is uncertain how many fines related to failures to comply with notice requirements would be collected. DOI deposited $1.1 million in revenue from fines and penalties in the General Fund in FY 07.

The DOI commissioner is tasked in the bill with adopting regulations related to the development of the disclosure statement, which the agency will be able to achieve within normally existing resources.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of disclosure violations made in the out years, triggering the ordering and collecting of the related fines.

OLR Bill Analysis
sSB 480

AN ACT CONCERNING CHARITABLE GIFT ANNUITIES.

SUMMARY:

This bill revises the insurance commissioner's regulatory oversight of charitable gift annuities and disclosure requirements that charitable organizations ("charities") must follow when issuing them.

It deletes (1) a requirement that a charity disclose to a donor, when entering into a qualified charitable annuity agreement, that the commissioner does not regulate the annuity and (2) a provision that excludes issuing charitable gift annuities from being the "business of insurance" (a legal term of art that helps determine what the Insurance Department's regulatory scope entails in relation to federal law).

By law, the charity must give the donor written disclosure that the annuity is not insurance under Connecticut laws and the Connecticut Insurance Guaranty Association does not protect it. The bill requires a charity, before issuing a charitable gift annuity or qualified charitable gift annuity, to give a donor an additional written disclosure statement, separate from the annuity agreement and in conspicuous type, describing the annuity's nature and scope. It requires the commissioner to adopt regulations establishing the disclosure statement's content and format.

Current law authorizes the commissioner to enforce the disclosure requirement. It permits him to (1) send a noncompliant charity a letter, return receipt requested, demanding compliance and (2) fine the charity up to $1,000 per annuity agreement it issues until it complies. The bill deletes the letter and demand option and increases the fine commissioner may impose to up to $10,000 per annuity agreement

issued until compliance.

Current law specifies that an organization's noncompliance with the disclosure requirement will not prevent an annuity from constituting a qualified charitable gift annuity if it satisfies the law's requirements in all other respects. The bill deletes this provision, but it appears that this has no legal effect because an annuity is a "qualified charitable gift annuity" if it meets the definition of one as provided for in law (see BACKGROUND).

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Definitions

A "charitable gift annuity" is a periodic cash payment over one or two lives paid to a donor who, in exchange, transfers cash or other property to the charity that issued the annuity. The actuarial value of the annuity is less than the value of the cash or other property transferred, and the donor, for federal tax purposes, claims the difference in value as a charitable deduction.

A "qualified charitable gift annuity" is a charitable gift annuity that satisfies federal Internal Revenue Code provisions and for which the issuing charity has (1) at least $300,000 in unrestricted cash, cash equivalents, or publicly traded securities (excluding the assets funding the annuity agreement) on the date of the annuity agreement and (2) been, or is a successor or affiliate of a charity that has been, in continuous operation for at least three years.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 17 Nay 0 (03/13/2008)