



General Assembly

February Session, 2008

Raised Bill No. 480

LCO No. 2201

02201_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING CHARITABLE GIFT ANNUITIES.

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

1 Section 1. Section 38a-1030 of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2008*):

3 As used in sections 38a-1030 to 38a-1034, inclusive:

4 (1) "Charitable gift annuity" means a transfer of cash or other
5 property by a donor to a charitable organization in return for an
6 annuity payable over one or two lives, under which the actuarial value
7 of the annuity is less than the value of the cash or other property
8 transferred and the difference in value constitutes a charitable
9 deduction for federal tax purposes. "Charitable gift annuity" does not
10 include a charitable remainder trust, a charitable lead trust or other
11 similar arrangement where the charitable organization does not issue
12 an annuity and incur a financial obligation to guarantee annuity
13 payments.

14 (2) "Charitable organization" means an entity described in: (A)
15 Section 501(c)(3) of the Internal Revenue Code of 1986, or any

16 subsequent corresponding internal revenue code of the United States,
17 as from time to time amended (26 USC Section 501(c)(3)); or (B) Section
18 170(c) of said Internal Revenue Code (26 USC Section 170(c)).

19 [(3) "Qualified charitable gift annuity" means a charitable gift
20 annuity described in Section 501(m)(5) of said Internal Revenue Code
21 (26 USC Section 501(m)(5)), and Section 514(c)(5) of said Internal
22 Revenue Code (26 USC Section 514(c)(5)), that is issued by a charitable
23 organization that on the date of the annuity agreement: (A) Has a
24 minimum of three hundred thousand dollars in unrestricted cash, cash
25 equivalents or publicly traded securities, exclusive of the assets
26 funding the annuity agreement; and (B) has been in continuous
27 operation for at least three years or is a successor or affiliate of a
28 charitable organization that has been in continuous operation for at
29 least three years.]

30 Sec. 2. Section 38a-1031 of the general statutes is repealed and the
31 following is substituted in lieu thereof (*Effective October 1, 2008*):

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

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

38 (a) A charitable organization shall not receive transfer of property,
39 conditioned upon its agreement to pay an annuity to the donor or
40 other annuitant unless it has obtained a certificate of authority to issue
41 charitable gift annuities from the commissioner. A person acting on
42 behalf of a charitable organization to solicit the transfers of property in
43 exchange for annuity payments shall not be required to be licensed.
44 Such person shall be authorized, in writing, by the charitable
45 organization to act on its behalf and such charitable organization shall
46 keep a file of current written authorizations.

47 (b) A charitable organization shall file an application for a certificate
48 of authority with the commissioner. The application shall be on a form
49 prescribed by the commissioner and shall be verified by two of the
50 applicant's officers. Such application shall be accompanied by such
51 proof as the commissioner may reasonably require that the applicant is
52 qualified under this part. The applicant shall pay to the commissioner
53 at the time of filing an application fee to be determined by the
54 commissioner.

55 (c) If, after such investigation the commissioner deems advisable,
56 the commissioner finds that the applicant is in sound financial
57 condition and is otherwise qualified, the commissioner shall issue a
58 certificate of authority to the applicant. If the commissioner does not so
59 find, the commissioner shall deny issuance of the certificate of
60 authority and notify the applicant, in writing, stating the reasons for
61 denial.

62 (d) The certificate of authority of a charitable organization issued
63 under this section shall continue until suspended or revoked by the
64 commissioner or terminated by the organization, subject to
65 continuance each year by payment on or before March first of the
66 continuance fee to be determined by the commissioner and filing of the
67 annual report.

68 Sec. 3. Section 38a-1032 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2008*):

70 [(a) When entering into an agreement for a qualified charitable gift
71 annuity, the charitable organization shall disclose to the donor in
72 writing in the annuity agreement that a qualified charitable gift
73 annuity is not insurance under the laws of this state and is not subject
74 to regulation by the Insurance Commissioner or protected by an
75 insurance guaranty association.

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

78 annuity agreement generally.]

79 (a) A charitable organization authorized by this chapter shall
80 maintain a segregated account for its charitable gift annuities. The
81 assets of the account are not liable for any debts of the charitable
82 organization other than those incurred pursuant to the issuance of
83 charitable gift annuities. The assets of the account shall at least equal in
84 amount the sum of the reserves on its outstanding annuities plus a
85 surplus of ten per cent of the reserves.

86 (b) (1) Reserves on the outstanding annuities shall not be less than
87 reserves calculated using:

88 (A) The commissioner's annuity reserve valuation method, as
89 defined in the charitable organization's domestic state standard
90 valuation law;

91 (B) Any mortality table permitted under the charitable
92 organization's domestic state standard valuation law to be used in
93 determining the minimum standard for the valuation of individual
94 annuities issued during the same calendar year as the charitable gift
95 annuity; and

96 (C) The maximum interest rate permitted under the charitable
97 organization's domestic state standard valuation law to be used in
98 determining the minimum standard for the valuation of individual
99 annuities issued during the same calendar year as the charitable gift
100 annuity.

101 (2) In determining the reserves, a deduction shall be made for any
102 portion of the annuity risk that is reinsured by an authorized insurer
103 or reinsurer. For this purpose, any annuity contract purchased from an
104 authorized insurer or reinsurer by the charitable organization is
105 considered to be "annuity risk reinsured".

106 (c) The general assets of the charitable organization shall be liable
107 for annuity agreements to the extent that the segregated account is

108 inadequate.

109 (d) The segregated assets shall be invested in the same manner and
110 subject to the same investment laws applicable to domestic life
111 insurers under section 38a-102 et seq.

112 Sec. 4. Section 38a-1033 of the general statutes is repealed and the
113 following is substituted in lieu thereof (*Effective October 1, 2008*):

114 [(a) A charitable organization that issues qualified charitable gift
115 annuities shall notify the Insurance Commissioner, in writing, by the
116 latter of January 1, 2000, or the date on which it enters into the
117 organization's first qualified charitable gift annuity agreement. The
118 notice shall: (1) Be signed by an officer or director of the organization;
119 (2) identify the organization; and (3) certify that: (A) The organization
120 is a charitable organization; and (B) the annuities issued by the
121 organization are qualified charitable gift annuities.

122 (b) The organization shall not be required to submit additional
123 information except to determine appropriate penalties that may be
124 applicable under section 38a-1034.]

125 (a) A charitable organization authorized under this chapter shall
126 annually file a report verified by at least two principal officers with the
127 commissioner covering the preceding fiscal year. Such report shall be
128 due not later than ninety days after the close of the charity's fiscal year
129 or at a later date approved by the commissioner.

130 (b) The report shall be on forms prescribed by the commissioner
131 and shall include:

132 (1) A financial statement of the organization, including its balance
133 sheet and receipts and disbursements for the preceding year;

134 (2) Any material changes in the information;

135 (3) The number of gift annuity contracts issued during the year, the

136 number of gift annuity contracts as of the end of the year and the
137 number of gift annuity contracts that terminated during the year;

138 (4) The amount of annuity payments made during the year and the
139 amounts transferred from the segregated account to the general
140 account during the year; and

141 (5) Other information relating to the performance of the charitable
142 gift annuity segment of the charitable organization necessary to enable
143 the commissioner to: (A) Issue certificates of authority; (B) ascertain
144 maintenance of records; (C) evaluate solvency; (D) respond to
145 consumer complaints; and (E) conduct hearings to determine
146 compliance with this chapter.

147 (c) A copy of a report containing the information required in
148 subsection (b) of this section that has been filed in the state of domicile
149 of the charitable organization shall be deemed to satisfy the
150 requirement of this section. The commissioner shall have the authority
151 to request additional information.

152 (d) Whenever the commissioner determines it to be expedient, the
153 commissioner may make or cause to be made an examination of the
154 assets and liabilities and other affairs of the charitable organization as
155 they pertain to annuity agreements entered into pursuant to this
156 chapter. The commissioner shall keep information obtained in the
157 course of examinations confidential until such examination is
158 completed. The reasonable expenses incurred for an examination shall
159 be paid by the charitable organization.

160 Sec. 5. Section 38a-1034 of the general statutes is repealed and the
161 following is substituted in lieu thereof (*Effective October 1, 2008*):

162 [The failure of a charitable organization to comply with the notice
163 requirements imposed under section 38a-1032 or 38a-1033 shall not
164 prevent a charitable gift annuity that otherwise meets the requirements
165 of sections 38a-1030 to 38a-1034, inclusive, from constituting a

166 qualified charitable gift annuity. The Insurance Commissioner may
167 enforce performance of the requirements of sections 38a-1032 and 38a-
168 1033 by sending a letter by certified mail, return receipt requested,
169 demanding that the charitable organization comply with the
170 requirements of sections 38a-1032 and 38a-1033. The commissioner
171 may fine the charitable organization in an amount not to exceed one
172 thousand dollars per qualified charitable gift annuity agreement issued
173 until such time as the charitable organization complies with the
174 requirements of sections 38a-1032 and 38a-1033.]

175 (a) An authorized charitable organization shall file with the
176 commissioner a copy of each form of agreement that it proposes to
177 issue to donors in exchange for property transferred to the
178 organization.

179 (b) Each annuity agreement form shall include the following
180 information: (1) The value of the property to be transferred; (2) the
181 amount of the annuity to be paid to the donor or other annuitant; (3)
182 the manner in which and the intervals at which payment is to be made;
183 (4) the age and sex of the person or persons during whose life payment
184 is to be made; (5) the reasonable value as of the date of the agreement
185 of the benefits created; and (6) the date that payments are to begin.

186 (c) Before accepting the property transferred in exchange for the
187 annuity agreement, the organization shall obtain a signed statement
188 from a prospective donor acknowledging the following terms of the
189 agreement: (1) The value of the property transferred; (2) the amount of
190 the periodic annuity benefits to be paid; (3) the manner in which and
191 the intervals at which payment is to be made; (4) the reasonable value
192 as of the date of the agreement of the benefits created; and (5) the date
193 that payments are to begin.

194 (d) In addition to the disclosure specified in subsection (c) of this
195 section, the charitable organization shall obtain a signed statement
196 from a prospective donor acknowledging that such donor has been
197 informed that payments made under a charitable gift annuity are

198 backed solely by the full faith and credit of the organization, are not
199 insured or guaranteed by an insurance company, are not protected by
200 any insurance guaranty association and are not backed in any way by
201 the state of Connecticut.

202 (e) The requirements of subsections (a) and (b) of this section may
203 be satisfied by an acknowledgment that is a part of the annuity
204 agreement that is signed by the donor.

205 (f) (1) The provisions of the following shall apply to transactions
206 under sections 38a-1030 to 38a-1034, inclusive, as amended by this act:

207 (A) Bankruptcy Code, 11 USC 101 et seq.;

208 (B) Connecticut standards on hazardous financial condition as set
209 forth in section 38a-8-101 et seq. of the regulations of Connecticut state
210 agencies;

211 (C) Chapter 704; and

212 (D) Section 38a-102 et seq.

213 (2) The provisions of sections 38a-858 to 38a-875, inclusive, shall not
214 apply to charitable gift annuities.

215 (g) The commissioner shall, in accordance with the provisions of
216 chapter 54, adopt regulations to carry out the requirements of this
217 chapter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	38a-1030
Sec. 2	<i>October 1, 2008</i>	38a-1031
Sec. 3	<i>October 1, 2008</i>	38a-1032
Sec. 4	<i>October 1, 2008</i>	38a-1033
Sec. 5	<i>October 1, 2008</i>	38a-1034

Statement of Purpose:

To adopt the Charitable Gift Annuity Model Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]