

Assembly Bill No. 555—Assemblymen Manendo, Koivisto, Bache, Claborn, Mortenson, Goldwater, Neighbors, Leslie, Gibbons, Price, Freeman, Gustavson, Berman, McClain, Buckley, Carpenter, Ohrenschall, Nolan, Perkins, Williams, Chowning, Humke, Evans, Thomas, Segerblom, Collins, Parks, Giunchigliani, Arberry, Anderson, Lee, Brower, de Braga, Dini, Beers, Parnell, Angle, Tiffany, Von Tobel, Marvel, Hettrick and Cegavske

Joint Sponsors: Senators Titus, Wiener, Rawson, Amodei, Care and Washington

CHAPTER.....

AN ACT relating to charitable annuities; excluding them from the categories of insurance and securities; requiring certain reports; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 688A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires:*

1. *“Charitable-gift annuity” means an annuity payable over one or two lives issued by a charitable organization in return for a transfer of money or property by the donor, if the actuarial value of the annuity is less than the value of the money or property transferred and a deduction as a charitable contribution is allowable for purposes of federal taxes.*

2. *“Charitable organization” means an artificial person described as such in Section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), or Section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c).*

3. *“Qualified charitable-gift annuity” means a charitable-gift annuity described in Section 501(m)(5) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(m)(5), and Section 514(c)(5) of the Internal Revenue Code of 1986, 26 U.S.C. § 514(c)(5), which is issued by a charitable organization that on the date of issuance:*

(a) Owns at least \$300,000 worth of money, cash equivalents or publicly traded securities, exclusive of the amount transferred to it in return for the annuity; and

(b) Has operated continuously for at least 3 years or is a successor or affiliate of a charitable organization that has operated continuously for at least 3 years.

The term does not include an annuity for which any person is paid compensation that is contingent upon the issuance of the annuity or

based upon the value of the annuity other than a payment for reinsurance to an insurer licensed to issue insurance in this state.

Sec. 3. The issuance of a qualified charitable-gift annuity does not constitute transacting insurance in this state. A charitable-gift annuity issued before October 1, 1999, is a qualified charitable-gift annuity for the purposes of sections 2 to 6, inclusive, of this act.

Sec. 4. In an agreement to issue a qualified charitable-gift annuity, the charitable organization shall disclose in writing to the donor that the annuity is not insurance under the laws of this state, is not subject to regulation by the commissioner and is not protected by an insurance guaranty association. The disclosure must be made in a separate paragraph and may not be in a size of type smaller than used generally in the agreement.

Sec. 5. 1. A charitable organization that issues qualified charitable-gift annuities shall notify the commissioner in writing on or before December 30, 1999, or the expiration of 90 days after it first enters into an agreement to issue a qualified charitable-gift annuity, whichever is later. The notice must:

(a) Be signed by an officer or director of the organization;

(b) Identify the organization; and

(c) Certify that the organization is a charitable organization and that the annuities are qualified charitable-gift annuities.

2. Unless the commissioner demands information to determine the amount of a penalty under section 6 of this act, the organization need submit no other information.

Sec. 6. 1. Failure of a charitable organization to comply with the requirements of section 4 or 5 of this act for disclosure or notice, or both, does not disqualify an annuity that otherwise constitutes a qualified charitable-gift annuity.

2. The commissioner may demand, by certified mail with return receipt requested, that the organization comply with those requirements, and may impose a fine of not more than \$1,000 for each charitable-gift annuity issued before compliance is complete.

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