

SENATE CS FOR CS FOR HOUSE BILL NO. 121(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/5/01

Referred: Rules

Sponsor(s): REPRESENTATIVES MURKOWSKI, Lancaster, Harris, Stevens

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the issuance of qualified charitable gift annuities."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE FOR AS 21.03.070. AS 21.03.070, added by sec. 3 of this Act, may
6 be cited as the Charitable Gift Annuities Exemption Act.

7 * **Sec. 2.** AS 21.03.021 is amended to read:

8 **Sec. 21.03.021. Application of title. In addition to the exclusion contained**
9 **in AS 21.03.070, this** [THIS] title does not apply to a life insurance or annuity
10 company organized and operated without profit to any private shareholder or
11 individual exclusively for the purpose of aiding and strengthening educational
12 institutions by issuing insurance and annuity contracts only to or for the benefit of the
13 institutions and individuals engaged in the service of these institutions; however, all
14 policies and contracts issued by such an organization must provide for acceptance of
15 service of process within this state.

1 * **Sec. 3.** AS 21.03 is amended by adding a new section to read:

2 **Sec. 21.03.070. Exemption for qualified charitable gift annuities. (a)**

3 Notwithstanding any other provision of this title, the issuance of a qualified charitable
4 gift annuity does not constitute engaging in the business of insurance in this state, and,
5 except as provided by this section, is exempt from regulation by the division under this
6 title.

7 (b) When entering into an agreement for a qualified charitable gift annuity, the
8 charitable organization shall set out in writing in the agreement that

9 (1) a qualified charitable gift annuity is not an insurance policy in this
10 state, is not subject to regulation by the division, and is not protected by the Alaska
11 Life and Health Insurance Guaranty Association established under AS 21.79.040 or
12 any other association that guarantees payment under a policy of insurance; and

13 (2) the state does not in any way approve or endorse the annuity.

14 (c) The notice required by (b) of this section must be in bold type and be
15 contained in a separate paragraph, and the print size of the notice must be larger than
16 the print size generally used in the annuity agreement.

17 (d) A charitable organization that issues its first qualified charitable gift
18 annuity on or after the effective date of this Act shall notify the division in writing
19 within 90 days after the issuance. The notice

20 (1) shall be signed by an officer or director of the charitable
21 organization;

22 (2) must provide the name and address of the charitable organization;
23 and

24 (3) must certify that

25 (A) the charitable organization is a charitable organization; and

26 (B) the charitable gift annuities issued by the charitable
27 organization are qualified charitable gift annuities.

28 (e) Except for the information required by (d) of this section, a charitable
29 organization is not required to submit information to the division unless the division
30 determines additional information is necessary to determine an appropriate fine under
31 (g) of this section.

(f) If a charitable organization fails to comply with the notice requirements under (b), (c), or (d) of this section, the qualified charitable gift annuity issued by the charitable organization still receives the exemption for a qualified charitable gift annuity provided by (a) of this section.

(g) The division may enforce performance with the notice requirements under (b), (c), or (d) of this section by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with the requirements. The division may impose a civil penalty on the charitable organization in an amount not to exceed \$1,000 for each qualified charitable gift annuity issued by the charitable organization until the charitable organization complies with the requirements.

(h) In this section,

(1) "charitable gift annuity" means a transfer of money or other property by a person to a charitable organization in return for the charitable organization's providing an annuity to the person that is payable over one or two lives and under which the

(A) actuarial value of the annuity is less than the value of the money or other property transferred; and

(B) difference in value constitutes a charitable deduction for federal income tax purposes;

(2) "charitable organization" means a person identified

(A) in the definition of "charitable contribution" in 26 U.S.C. 170(c) as a person to whom or for whose use a contribution or gift is made; or

(B) as an exempt organization under 26 U.S.C. 501(c)(3);

(3) "qualified charitable gift annuity" means an annuity described in 26 U.S.C. 501(m)(5) and 26 U.S.C. 514(c)(5), if the annuity is issued by a charitable organization that on the date of the issuance has

(A) a minimum of

(i) \$300,000 in unrestricted cash, in cash equivalents, or in publicly traded securities, exclusive of the assets funding the annuity; and

(ii) three years of continuous operation or is a successor

1 or affiliate of a charitable organization that has been in continuous
2 operation for at least three years; or

3 (B) a guarantee that the obligations of the annuity contract will
4 be met by a charitable organization that meets the requirements of (A) of this
5 paragraph.

6 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. (a) AS 21.03.070(a), added by sec. 3 of this Act, applies to a
9 qualified charitable gift annuity that is issued

10 (1) before the effective date of this Act and that is in effect on the effective
11 date of this Act, and, to that extent, this Act is retroactive under AS 01.10.090;

12 (2) on or after the effective date of this Act.

13 (b) In this section, "qualified charitable gift annuity" has the meaning given in
14 AS 21.03.070(h), added by sec. 3 of this Act.

15 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 TRANSITION. If a charitable organization has issued a qualified charitable gift
18 annuity before the effective date of this Act, and if the qualified charitable gift annuity is still
19 in effect on the effective date of this Act, the charitable organization that issued the qualified
20 charitable gift annuity shall notify the division in writing within 90 days after the effective
21 date of this Act that it has issued a qualified charitable gift annuity. The notice must confirm
22 compliance with AS 21.03.070(b) and (c), added by sec. 3 of this Act. In this section,
23 "charitable organization" and "qualified charitable gift annuity" have the meanings given in
24 AS 21.03.070(h), added by sec. 3 of this Act.