

CHAPTER 508F

CHARITABLE GIFT ANNUITIES

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508F.1 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

1. “*Charitable gift annuity*” means a transfer of property by a donor to a charitable organization in return for an annuity payable over one or two lives, if the actuarial value of the annuity is less than the value of the property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.

2. “*Charitable organization*” means an entity described by any of the following:

a. Section 501(c)(3) of the Internal Revenue Code.

b. Section 170(c) of the Internal Revenue Code.

3. “*Commissioner*” means the commissioner of insurance.

4. “*Internal Revenue Code*” means the Internal Revenue Code of 1986 as designated by the Tax Reform Act of 1986, as amended to a date designated by rules adopted by the commissioner.

5. “*Property*” means anything of value that is subject to ownership, and includes but is not limited to property classified as real, personal, mixed, tangible or intangible, or any present or future interest in such property.

6. “*Qualified charitable gift annuity*” means a charitable gift annuity that is described by section 501(m)(5) or 514(c)(5) of the Internal Revenue Code, if all of the following apply:

a. The annuity agreement is issued by a charitable organization.

b. On the date that the annuity agreement is issued, the charitable organization has a minimum value of the lesser of three hundred thousand dollars or five times the face amount of total outstanding annuities in unrestricted cash, cash equivalents, or publicly traded securities. However, the total outstanding annuities as provided in this paragraph do not include assets funding the annuity agreement.

c. The charitable organization has been in continuous operation for at least three years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three years.

2001 Acts, ch 28, §2

508F.2 Qualified charitable gift annuity is not insurance.

1. The issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state.

2. A charitable gift annuity that meets the requirements of a qualified charitable gift annuity shall be deemed to be a qualified charitable gift annuity for purposes of this chapter, regardless of whether the charitable gift annuity was issued prior to July 1, 2001. The issuance of that charitable gift annuity shall not be construed as engaging in the business of insurance in this state.

2001 Acts, ch 28, §3

508F.3 Annuity agreement — notice to donor.

An agreement for a qualified charitable gift annuity executed by a charitable organization and a donor shall be in writing. The annuity agreement shall include a notice stating that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the commissioner or protected by an insurance guaranty fund or an

insurance guaranty association. The notice required by this section shall be in a separate paragraph and in a type size no smaller than that generally used in the annuity agreement.

2001 Acts, ch 28, §4

508F.4 Notice filed with the commissioner.

1. A charitable organization that issues qualified charitable gift annuities in this state on and after July 1, 2001, shall file a notice with the commissioner in writing not later than the date on which it executes the organization's first qualified charitable annuity agreement. All of the following shall apply:

- a. The notice must be signed by an officer or director of the charitable organization.
- b. The notice must identify the name and address of the charitable organization.
- c. The notice must include a copy of the determination letter issued by the internal revenue service.
- d. The notice must certify that the charitable organization is a bona fide charitable organization and that the annuities issued by the charitable organization are qualified charitable gift annuities.

2. The charitable organization is not required to submit additional information, unless the information is to be used to determine appropriate penalties that may be applicable under section 508F.5.

2001 Acts, ch 28, §5

508F.5 Failure to comply with requirements.

1. The failure of a charitable organization to comply with the requirements of sections 508F.3 and 508F.4 does not prevent a charitable gift annuity that otherwise meets the requirements of this chapter from constituting a qualified charitable gift annuity.

2. The commissioner shall enforce performance of the requirements of sections 508F.3 and 508F.4. The commissioner may do any of the following:

- a. Send a letter by restricted certified mail to the charitable organization demanding that the charitable organization comply with this chapter.
- b. Establish and impose civil penalties on the charitable organization in an amount not to exceed one thousand dollars for each qualified charitable gift annuity issued until the charitable organization complies with the requirements of this chapter.

2001 Acts, ch 28, §6

508F.6 Penalties.

The commissioner may determine, after hearing, that the issuance of an annuity is not in compliance with this chapter and that the entity issuing the annuity is subject to the provisions and penalties of chapters 507A and 507B.

2001 Acts, ch 28, §7

508F.7 Not unfair or deceptive trade practice.

The issuance of a qualified charitable gift annuity does not constitute a violation of chapter 507B.

2001 Acts, ch 28, §8

508F.8 Rules.

The commissioner may adopt rules pursuant to chapter 17A necessary to administer and enforce this chapter.

2001 Acts, ch 28, §9