

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 905 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S3/2/05

A Bill

SENATE BILL 557

5 By: Senators Miller, Bryles
6 By: Representative Childers
7
8

For An Act To Be Entitled

9
10 AN ACT TO MODERNIZE ARKANSAS LAW PERTAINING TO
11 CHARITABLE GIFT ANNUITIES; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14
15 TO MODERNIZE ARKANSAS LAW PERTAINING TO
16 CHARITABLE GIFT ANNUITIES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 23-63-201(d), concerning gift annuities, is
22 amended to read as follows:

23 (d)(1)(A) The commissioner, in his or her reasonable discretion guided
24 by the standards contained in this subsection and consistent with the ~~purpose~~
25 purposes set forth in this subsection, may issue a special permit to make
26 fixed-dollar life-only annuity agreements with donors to any duly organized
27 domestic or foreign nonstock corporation or association conducted without
28 profit and:

29 ~~(i) engaged~~ Engaged in active operation for at least
30 five (5) years prior ~~thereto~~ to receiving the permit solely in bona fide
31 charitable, religious, missionary, educational, or philanthropic activities; ~~;~~
32 or

33 ~~(B)(ii) The commissioner may approve the issuance of~~
34 ~~a permit to such a corporation or association that has not been~~ Not engaged
35 in active operation solely in bona fide charitable, religious, missionary,



1 educational, or philanthropic activities for five (5) years if ~~he or she~~ the
 2 commissioner is reasonably satisfied that:

3 (a) ~~the~~ The entity is affiliated with a
 4 corporation or association ~~of this description that has been in operation for~~
 5 ~~such a period~~ that meets the requirements of subdivision (d)(1)(A)(i) of this
 6 section; and

7 (b) ~~that there is readily available to the~~
 8 ~~entity requesting the permit an~~ An adequate level of management expertise is
 9 readily available to the entity requesting the permit.

10 ~~(C)(B)~~ The permit shall authorize the corporation or
 11 association to receive gifts of money conditioned upon, or in return for, its
 12 agreement to pay an annuity to the donor or his or her nominee and to make
 13 and carry out the annuity agreement.

14 ~~(D)(C)~~ Before making ~~the agreements~~ an annuity agreement
 15 under this subsection (d), every ~~such~~ corporation or association shall file
 16 with the commissioner for his or her approval either:

17 (i) A schedule of its maximum annuity rates that
 18 shall be computed on the basis of the annuity standard adopted by it for
 19 calculating its reserves; or

20 (ii) A statement certifying that it adopts and will
 21 adhere to the annuity rates as published from time to time by the American
 22 Council on Gift Annuities or its successor until the corporation or
 23 association advises the commissioner to the contrary in writing. ~~At such~~
 24 ~~latter time, the corporation or association shall then file~~ and files a
 25 schedule of its new proposed maximum annuity rates for approval.

26 ~~(E)(D)~~ Filings and approvals required ~~herein~~ under this
 27 subsection (d) shall be subject to the provisions of §§ 23-79-109 and 23-79-
 28 110.

29 (2) Each ~~such~~ domestic corporation or association shall maintain
 30 reserves with respect to the annuity or income stream that it has agreed to
 31 pay to a charitable donor ~~either~~ by:

32 (A) Calculation of the reserves upon the obligation of the
 33 permittee to the donor annuitant in the manner set forth in § 23-84-101 et
 34 seq. concerning the standard valuation law for life insurance and annuities;

35 (B) Maintaining account reserves in an amount equal to the
 36 aggregate values determined at the dates of contribution of all assets

1 received from donors with respect to annuities for annuitants who are then
2 living; or

3 (C) Calculation of the reserves as the present value of
4 all future benefits to be paid to the donor annuitant based upon the most
5 recent mortality table published by the United States Internal Revenue
6 Service.

7 (3)(A) Unless otherwise permitted by the commissioner, each
8 corporation or association shall maintain a segregated account or accounts
9 for its charitable gift annuities.

10 (B) The segregated account or accounts shall be used
11 solely to pay the charitable gift annuity obligations of the corporation or
12 association.

13 ~~(B)(C)~~ If the commissioner finds the reserve established
14 by a permittee inadequate at any time, the commissioner shall order the
15 permittee to increase its reserve accordingly, or the commissioner may
16 stipulate the reserving method for the permittee to rectify the reserve
17 deficiency.

18 (4) Each corporation or association, except those identified in
19 subdivision (d)(5) of this section, shall maintain net admitted assets at
20 least equal to the greater of:

21 (A) The sum of its reserves on its outstanding agreements,
22 all other liabilities, and a surplus of at least ten percent (10%) of the
23 reserves; or

24 (B) The amount of fifty thousand dollars (\$50,000).

25 (5) Each ~~such~~ domestic corporation or association maintaining
26 reserves in the manner described ~~at~~ in subdivision (d)(2)(B) of this section
27 shall maintain net admitted assets at least equal to the amount of the
28 reserves plus all other outstanding liabilities.

29 ~~(6)(A)~~ In determining reserves, a deduction shall be made for
30 all or any portion of an annuity risk that is reinsured by a life insurance
31 company authorized to do business in this state.

32 ~~(B)(7)(A)~~ The required admitted assets shall be invested:

33 (i) only Only in securities permitted by the
34 provisions of §§ 23-63-801 - 23-63-833, 23-63-835, 23-63-836, 23-63-839, and
35 23-63-840; or

36 (ii) In accordance with the provisions of the

1 prudent investor rule stated in §§ 24-2-610 – 24-2-619.

2 (B) The investments shall be held by a custodian in
3 accordance with § 23-69-134(b)(4).

4 ~~(7)~~(8) No ~~such~~ corporation or association organized under the
5 laws of another state shall be permitted to make ~~such~~ annuity agreements in
6 this state unless it complies with all requirements of this subsection
7 imposed upon ~~like~~ domestic corporations or associations, except that ~~it~~ a
8 corporation or association organized under the laws of another state may
9 invest its reserves and surplus funds in securities permitted by the laws of
10 ~~the~~ its state of domicile.

11 ~~(8)(A)~~(9)(A) No ~~such~~ corporation or association shall make or
12 issue in this state any annuity contract before obtaining a permit issued in
13 accordance with the provisions of this subsection.

14 (B) If, after notice and hearing, the commissioner finds
15 that ~~any such~~ a corporation or association having ~~such~~ a permit has failed to
16 comply with the requirements of this subsection, he or she may revoke or
17 suspend ~~such a~~ the permit or order the permittee to cease making new annuity
18 contracts until it complies.

19 (C)(i) All ~~such~~ corporations or associations operating
20 under this subsection (d) shall be required to file an annual financial
21 statement of their operations and accounts and schedule of outstanding
22 annuities with applicable reserves within ninety (90) days of the end of
23 their fiscal year.

24 (ii) The report ~~is to~~ shall be prepared by a
25 certified public accountant in accordance with generally accepted accounting
26 principles detailing the financial condition and status of the corporation or
27 association as of the ~~just-concluded~~ conclusion of its most recent fiscal
28 year.

29 (iii) Each domestic corporation or association
30 investing assets in the manner described in subdivision (d)(7)(A)(ii) of this
31 section shall file with the annual report:

32 (a) A description of the organization's
33 investment philosophy for charitable gift annuities and how the investments
34 of the company are designed to meet future charitable gift annuity
35 obligations;

36 (b) A report from the organization identifying

1 the members of the investment committee charged with making investment
2 decisions regarding charitable gift annuity assets including a description of
3 each committee member's investment expertise; and

4 (c) A certification of the board of directors
5 of the corporation or association that attests that its investments and
6 investment transactions match the organization's philosophy and meet the
7 standards of the prudent investor rule stated in §§ 24-2-610 – 24-2-619.

8 (10) The commissioner may promulgate any rules and regulations
9 he or she considers necessary or desirable to implement the provisions of
10 this subsection (d).

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12 */s/ Miller*

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15 *APPROVED: 3/16/2005*
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