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SENATE BILL 307

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

L. Skip Vernon

AN ACT

RELATING TO INSURANCE; EXEMPTING CHARITABLE GIFT ANNUITIES FROM REGULATIONS APPLICABLE TO INSURANCE COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the New Mexico Insurance Code is enacted to read:

"[NEW MATERIAL] CHARITABLE GIFT ANNUITIES--EXEMPT FROM REGULATION AS INSURANCE COMPANY.--

A. As used in this section:

(1) "charitable gift annuity" means a transfer of cash or other property by a donor to a charitable organization in return for an annuity payable over one or two lives, under which the actuarial value of the annuity is less than the value of the cash or other property transferred and the difference in value constitutes a charitable deduction for federal tax purposes;

(2) "charitable organization" means an entity described in:

(a) Section 501(c)(3) of the Internal Revenue Code of 1986;

or

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(b) Section 170(c) of that act; and

(3) "qualified charitable gift annuity" means a charitable gift annuity described in Section 501(m)(5) and Section 514(c)(5) of that act that is issued by a charitable organization that on the date of the annuity agreement:

(a) has either an unrestricted fund balance consisting of assets in excess of liabilities of not less than three hundred thousand dollars (\$300,000) or unencumbered assets in its gift annuity fund of not less than three hundred thousand dollars (\$300,000); and

(b) 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.

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

C. A charitable gift annuity issued prior to July 1, 1999 is a qualified charitable gift annuity for purposes of this section, and the issuance of that charitable gift annuity does not constitute engaging in the business of insurance in this state.

D. When entering into an agreement for a qualified charitable gift annuity, the charitable organization shall disclose to the donor in writing in the annuity agreement that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the insurance division or protected by a guaranty association affiliated with the division. The disclosure shall be in a separate paragraph in a print size no smaller than that employed generally in the annuity agreement.

E. A charitable organization that issues qualified charitable gift annuities shall notify the insurance division in writing by the later of October 1, 1999 or the date on which it enters into the organization's first qualified charitable gift annuity agreement. The notice shall:

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

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(2) identify the charitable organization; and

(3) certify that the organization is a charitable organization and the annuities issued by the organization are qualified charitable gift annuities. The charitable organization shall not be required to provide additional information to the division except as provided in Subsection F of this section.

F. The failure of a charitable organization to comply with the notice requirements provided in Subsections D and E of this section does not prevent a charitable gift annuity that otherwise meets the requirements of this section from constituting a qualified charitable gift annuity; provided, however, that the superintendent may enforce performance of those requirements by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with the notice requirements provided in Subsections D and E of this section.

G. The issuance of a qualified charitable gift annuity does not constitute a violation of the Unfair Practices Act."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1999.

1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

3  
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5  
6 February 4, 1999

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8 Mr. President:

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10 Your **CORPORATIONS & TRANSPORTATION COMMITTEE**, to  
11 whom has been referred

12  
13 **SENATE BILL 307**

14  
15 has had it under consideration and reports same with recommendation that it **DO PASS**, and  
16 hence referred to the **PUBLIC AFFAIRS COMMITTEE**.

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19 Respectfully submitted,

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25 **Roman M. Maes, Chairman**

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Kysar, Macias, McKibben

Absent: None

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1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

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5  
6 February 22, 1999

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8 Mr. President:

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10 Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

11  
12 **SENATE BILL 307**

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14 has had it under consideration and reports same with recommendation that it **DO PASS**.

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16  
17 Respectfully submitted,

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22 **Shannon Robinson, Chairman**

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25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Howes, Stockard, Smith

Absent: None

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

March 5, 1999

Mr. Speaker:

Your **TAXATION AND REVENUE COMMITTEE**, to whom has been referred

**SENATE BILL 307**

has had it under consideration and reports same with recommendation that it **DO PASS**.

Respectfully submitted,

\_\_\_\_\_  
Jerry W. Sandel, Chairman

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1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3 SB 307

Page 11

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5 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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10 The roll call vote was 11 For 0 Against

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Yes: 11

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Excused: Burpo, Lujan, Sandoval, Whitaker

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Absent: None

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