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 ANNUITIESEXEMPT 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
.125745.1

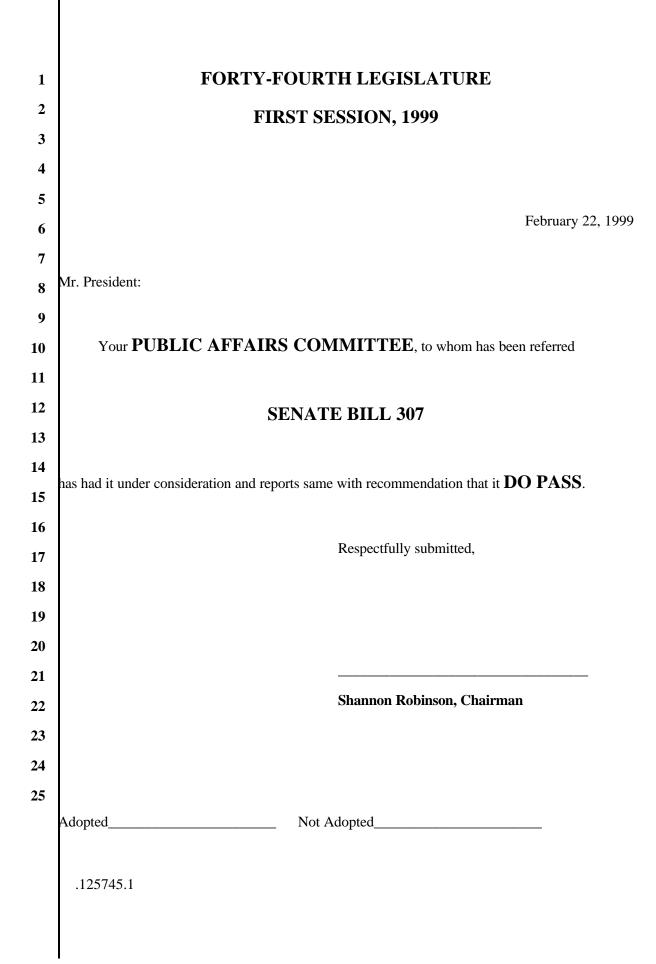
1	(b) Section 170(c) of that act; and
2	(3) "qualified charitable gift annuity" means a charitable gift annuity
3	described in Section 501(m)(5) and Section 514(c)(5) of that act that is issued by a charitable
4	organization that on the date of the annuity agreement:
5	(a) has either an unrestricted fund balance consisting of assets
6	in excess of liabilities of not less than three hundred thousand dollars (\$300,000) or
7	unencumbered assets in its gift annuity fund of not less than three hundred thousand dollars
8	(\$300,000); and
9	(b) has been in continuous operation for at least three years or
10	is a successor or affiliate of a charitable organization that has been in continuous operation for
11	at least three years.
12	B. The issuance of a qualified charitable gift annuity does not constitute
13	engaging in the business of insurance in this state.
14	C. A charitable gift annuity issued prior to July 1, 1999 is a qualified
15	charitable gift annuity for purposes of this section, and the issuance of that charitable gift
16	annuity does not constitute engaging in the business of insurance in this state.
17	D. When entering into an agreement for a qualified charitable gift annuity, the
18	charitable organization shall disclose to the donor in writing in the annuity agreement that a
19	qualified charitable gift annuity is not insurance under the laws of this state and is not subject to
20	regulation by the insurance division or protected by a guaranty association affiliated with the
21	division. The disclosure shall be in a separate paragraph in a print size no smaller than that
22 22	employed generally in the annuity agreement.
23 24	E. A charitable organization that issues qualified charitable gift annuities shall
24 25	notify the insurance division in writing by the later of October 1, 1999 or the date on which it
25	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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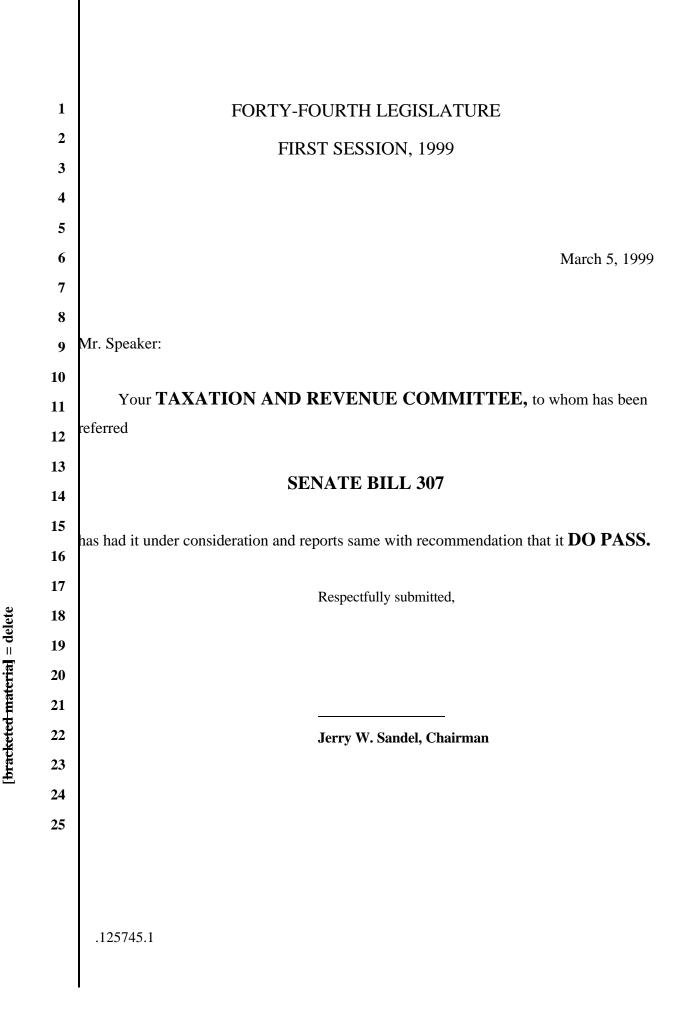
1	(2) identify the charitable organization; and
2	(3) certify that the organization is a charitable organization and the
3	annuities issued by the organization are qualified charitable gift annuities. The charitable
4	organization shall not be required to provide additional information to the division except as
5	provided in Subsection F of this section.
6	F. The failure of a charitable organization to comply with the notice
7	requirements provided in Subsections D and E of this section does not prevent a charitable gift
8	annuity that otherwise meets the requirements of this section from constituting a qualified
9	charitable gift annuity; provided, however, that the superintendent may enforce performance of
10	those requirements by sending a letter by certified mail, return receipt requested, demanding that
11	the charitable organization comply with the notice requirements provided in Subsections D and
12	E of this section.
13	G. The issuance of a qualified charitable gift annuity does not constitute a
14	violation of the Unfair Practices Act."
15	Section 2. EFFECTIVE DATEThe effective date of the provisions of this act is July
16	1, 1999.
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1	FORTY-FOURTH LEGISLATURE
2	FIRST SESSION, 1999
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5	February 4, 1999
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7 8	Mr. President:
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10	Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
11	whom has been referred
12	
13	SENATE BILL 307
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15	has had it under consideration and reports same with recommendation that it ${f DO}$ PASS, and
16	
17	thence referred to the <b>PUBLIC AFFAIRS COMMITTEE</b> .
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19 20	Respectfully submitted,
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24	Roman M. Maes, Chairman
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	Adopted No	t Adopted
	(Chief Clerk) (Chief	Clerk)
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3	Date	
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6	The roll call vote was <u>6</u> For <u>0</u> Against	
7	Yes: 6	
8	No: 0	
9	Excused: Aragon, Kysar, Macias, McKibber	1
10	Absent: None	
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	(Chief Clerk) (Chief Clerk	.)
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	The roll call vote was <u>6</u> For <u>0</u> Against	
	Yes: 6	
	No: 0	
9	Excused: Howes, Stockard, Smith	
	Absent: None	
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	FORTY-FOURTH LEGISLATURE FIRST SESSION, 1999					
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	(Chief Clerk)	(Chief Clerk)				
		Date				
The roll call	l vote was <u>11</u> For <u>0</u> Against					
Yes:	11					
Excused:	Burpo, Lujan, Sandoval, W	hitaker				
Absent:	None					
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