

SENATE BILL 15

C4

7lr0063

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: September 23, 2016

Introduced and read first time: January 11, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 17, 2017

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Charitable Gift Annuities – Special Permit Holders – Required**
3 **Financial Statements**

4 FOR the purpose of requiring a holder of a special permit needed to make agreements with
5 donors for annuity payments to certain entities to submit to the Maryland Insurance
6 Commissioner ~~a certain financial statement~~ statements instead of an annual report;
7 requiring the financial ~~statement~~ statements to be ~~prepared~~ audited by a certain
8 individual and presented in a certain manner; authorizing the Commissioner to
9 waive the requirement to submit the financial ~~statement~~ statements under certain
10 circumstances; making clarifying and conforming changes; and generally relating to
11 special permit holders and charitable gift annuities.

12 BY repealing and reenacting, with amendments,
13 Article – Insurance
14 Section 16–114
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2016 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Insurance**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 16–114.

2 (a) In this section, “community foundation” means a nonprofit organization that
3 is:

4 (1) formed to receive contributions and distribute money to meet cultural,
5 educational, charitable, environmental, civic, or other similar needs of a community; and

6 (2) governed by a board of private citizens who reside in the community.

7 (b) An educational or religious organization, hospital, or community foundation
8 may not make or issue in the State agreements for annuity payments with donors until it
9 has obtained from the Commissioner a special permit issued in accordance with this
10 section.

11 (c) (1) On application, the Commissioner may issue a special permit to make
12 agreements for annuity payments with donors to an educational or religious organization
13 not conducted for profit and engaged in bona fide educational or religious activities, to a
14 hospital in the State, or to a community foundation if the educational or religious
15 organization, hospital, or community foundation:

16 (i) except as provided in paragraph (2) of this subsection, has been
17 in active operation in the State for at least 10 years before issuance of the special permit;
18 and

19 (ii) has been granted exemption from federal income taxation under
20 § 501 of the Internal Revenue Code.

21 (2) The Commissioner may issue a special permit to a community
22 foundation that has been in existence for at least 5 years but less than 10 years if the
23 community foundation maintains [admitted] assets in an amount up to 100% of the
24 contributions made to the community foundation, as determined by the Commissioner.

25 (d) (1) Each special permit holder shall have and maintain [admitted] assets
26 at least equal to adequate reserves on its outstanding agreements for annuity payments
27 with donors as indicated by its [annual report] ~~CERTIFIED AUDITED FISCAL YEAR–END~~
28 ~~FINANCIAL STATEMENT STATEMENTS~~.

29 (2) In determining the reserves of a special permit holder on outstanding
30 agreements for annuity payments with donors, a deduction shall be made for all or part of
31 an annuity risk that is reinsured by an authorized life insurer.

32 (3) (I) [A] **SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A**
33 special permit holder shall submit [an annual report] **ANNUALLY A-CERTIFIED AUDITED**
34 **FISCAL YEAR–END FINANCIAL STATEMENT STATEMENTS** to the Commissioner within
35 90 days after the end of the special permit holder’s fiscal year.

(II) ~~THE FINANCIAL STATEMENT STATEMENTS~~ REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE:

1. ~~PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT;~~
~~AND~~

~~2.~~ PRESENTED IN CONFORMITY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

2. AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT.

(4) The [annual reports] ~~CERTIFIED~~ AUDITED FISCAL YEAR-END FINANCIAL ~~STATEMENT STATEMENTS~~ shall be treated as confidential by the Commissioner and ~~[are]~~ ~~IS~~ not available for public inspection.

(5) ON APPLICATION BY THE SPECIAL PERMIT HOLDER, THE COMMISSIONER:

(I) MAY WAIVE THE REQUIREMENT OF ~~A CERTIFIED~~ AUDITED FISCAL YEAR-END FINANCIAL ~~STATEMENT STATEMENTS~~; AND

(II) MAY REQUIRE INSTEAD ADDITIONAL DOCUMENTS OR INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY.

(e) A special permit issued under this section authorizes the special permit holder to receive gifts of money or other property conditional on, or in consideration of, the special permit holder's agreement to pay an annuity to the donor or the donor's nominee and to make and carry out agreements for annuity payments with donors.

(f) A special permit is in effect only as long as the special permit holder is exempt from federal income taxation under § 501 of the Internal Revenue Code.

(g) (1) If the Commissioner finds, after notice and hearing, that a special permit holder has failed to comply with the requirements of this section or is not exempt from federal income taxation under § 501 of the Internal Revenue Code, the Commissioner may:

(i) revoke or suspend the special permit; or

(ii) order the special permit holder to stop making new agreements for annuity payments with donors until the requirements have been satisfied.

(2) In case of revocation or suspension, outstanding agreements for annuity payments with donors shall remain in force.

(3) The action of the Commissioner under this subsection is subject to judicial review under § 2-215 of this article.

(h) (1) Except as otherwise provided in this section, a special permit holder is exempt from the provisions of this article with respect to issuing annuities.

(2) Special permit holders are not subject to a law enacted after June 1, 1957, unless they are expressly designated in the law.

(i) (1) Other than by agreements for annuity payments with donors, an educational or religious organization, hospital, or community foundation may agree to:

(i) accept conditional donations; and

(ii) pay to the donor or the donor's nominee a specified return established with reference to the actual net earnings of the particular donation or with reference to the actual or estimated earnings of a specified fund of the donee organization.

(2) An educational or religious organization, hospital, or community foundation that accepts conditional donations and pays a specified return to donors under paragraph (1) of this subsection is exempt from this section and all other provisions of this article with respect to issuing annuities.

(3) Educational or religious organizations, hospitals, or community foundations that accept conditional donations and pay specified returns to donors under this subsection are not subject to any law enacted after June 1, 1957, unless they are expressly designated in the law.

(j) Notwithstanding the absence of express power in the charter of a domestic educational, religious, or hospital corporation or community foundation, the corporation or community foundation may make the agreements for annuity payments with donors or other agreements with respect to conditional donations that are expressly allowed by this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.