



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Senate Bill 152

**Senate Substitute
Amendment 1**

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2013 Senate Bill 152 (the bill) relates to the regulation of a certain type of annuity, known as a qualified charitable gift annuity. An annuity is a contract under which a payer agrees to pay a person (the annuitant) periodic payments for a set period or for an indefinite period, such as the remainder of the annuitant's life. The bill defines a "qualified charitable gift annuity" as an annuity established under a transaction that is treated, for federal income tax purposes, partly as a charitable contribution and partly as an investment in an annuity contract, and that meets certain other Internal Revenue Code requirements.

Generally, under current law, the Office of the Commissioner of Insurance (OCI) regulates the sale of annuities, including transactions involving qualified charitable gift annuities. For example, prior to the issuance of a qualified charitable gift annuity, OCI must certify that the payer "is in a position properly to negotiate, execute and safeguard such annuity contracts," and the payer must maintain a segregated account for its gift annuities equal to the greater of \$100,000 or the sum of the reserves on its outstanding annuities plus a surplus of 10% of the reserves.

The bill exempts transactions involving qualified charitable gift annuities from regulation by OCI, including the requirements related to certification by the commissioner and maintenance of a segregated account. The bill requires an agreement for a qualified charitable gift annuity to disclose that the annuity is not insurance, is not subject to regulation by OCI, and is not protected by an insurance guaranty fund or association. In addition, the bill requires a charitable organization that issues a qualified charitable gift annuity to provide written notice to OCI that includes documentation of the organization's tax-exempt status and other specified information. Under a procedure specified in the bill, if a charitable organization fails to comply with the requirements under the bill, OCI may order the organization to pay a forfeiture of up to \$1,000 for each qualified charitable gift annuity issued out of compliance.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 (the substitute amendment) removes the requirement that a charitable organization that issues a qualified charitable gift annuity provide written notice to OCI. The substitute amendment also removes the procedure under which OCI may order the organization to pay a forfeiture for noncompliance. In addition, the substitute amendment adds two additional requirements related to qualified charitable gift annuity transactions, as follows:

- A charitable organization may not issue a qualified charitable gift annuity unless it has been in existence for at least three years; and
- A person that issued an existing qualified charitable gift annuity prior to the effective date of the bill must provide notice of the new provisions relating to the regulation of qualified charitable gift annuities to the policy owner or beneficiary of that qualified charitable gift annuity.

BILL HISTORY

On October 9, 2013, the Senate Committee on Insurance and Housing voted to recommend adoption of Senate Substitute Amendment 1 to 2013 Senate Bill 152, and passage of the bill, as amended, on votes of Ayes, 4; Noes, 1. On October 15, 2013, the substitute amendment was adopted, and the bill was passed, as amended, by the Senate, by voice vote.

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