

Amend CSHB 2752 by inserting the following new sections and renumber accordingly:

SECTION _____. Section 102.001, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) "Charitable gift annuity" means an annuity:

(A) that is payable over the lives of one or two individuals;

(B) that is made in return for the transfer of cash or other property to a charitable organization or qualified educational organization; and

(C) the actuarial value of which is less than the value of the cash or other property transferred, with the difference in those values being a charitable deduction for federal tax purposes.

(3) "Qualified educational organization" means an issuer of a charitable gift annuity that is:

(A) an institution of higher education as defined by Section 61.003, Education Code;

(B) a private or independent institution of higher education as defined by Section 61.003, Education Code; or

(C) a foundation designated in writing by an institution described by Paragraph (A) or (B) to issue charitable gift annuities for the benefit of the institution.

SECTION _____. Section 102.002, Insurance Code, is amended to read as follows:

Sec. 102.002. QUALIFIED CHARITABLE GIFT ANNUITY. (a) A charitable gift annuity is a qualified charitable gift annuity for purposes of this chapter if it was issued before September 1, 1995, or if it is:

(1) described by Section 501(m)(5), Internal Revenue Code of 1986; and

(2) issued by a charitable organization that on the date of the annuity agreement:

(A) has, exclusive of the assets funding the annuity agreement, a minimum of \$300,000 [~~\$100,000~~] in unrestricted cash, cash equivalents, or publicly traded securities; 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) A charitable gift annuity is a qualified charitable gift annuity if it is issued by a qualified educational organization that, on the date of the annuity agreement:

(1) has, exclusive of the assets funding the annuity agreement, a minimum of \$300,000 in unrestricted cash, cash equivalents, or publicly traded securities; and

(2) has been in continuous operation for at least three years or is a successor or affiliate of an institution or foundation described by Section 102.001(3) that has been in continuous operation for at least three years.

SECTION _____. Subchapter C, Chapter 102, Insurance Code, is amended by amending Section 102.102 and adding Section 102.105 to read as follows:

Sec. 102.102. NOTICE AND APPROVAL OF QUALIFIED STATUS OF CHARITABLE ORGANIZATION [~~TO DEPARTMENT~~]. (a) Not later than the 60th day before the date on which a charitable organization sells the organization's first qualified charitable gift annuity, the [A] charitable organization [~~that issues qualified charitable gift annuities~~] shall:

(1) notify the department's annuities division in writing of the organization's intention to issue a charitable gift annuity; and

(2) request in writing the department's approval of the organization as a qualified charitable organization under this chapter [~~not later than the date on which the organization enters into the organization's first qualified charitable gift annuity agreement~~].

(b) The notice required by this section must:

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

(2) identify the organization; [~~and~~]

(3) certify that:

(A) the organization is a charitable

organization; and

(B) the annuities issued by the organization are ~~[qualified]~~ charitable gift annuities; and

(4) be submitted in a form and manner adopted by the commissioner by rule under Subsection (c).

(c) The commissioner may adopt rules that establish the form and manner of information that a charitable organization must ~~[may not be required to]~~ submit to request approval under this section ~~[additional information except to determine appropriate penalties under Section 102.104].~~

(d) On receipt of notice and request for approval under this section, the department may:

(1) approve a request for a charitable organization to issue charitable gift annuities; or

(2) disapprove a request and notify the issuer in writing of the grounds for the disapproval in sufficient detail to allow remediation.

(e) A request under Subsection (b) is considered approved if the commissioner does not act on the request on or before the 60th day after the date the department received the request.

(f) The department may withdraw the approval of a request for qualified status of a charitable organization if the organization no longer satisfies the requirements for approval. The department shall notify the organization in writing of the grounds for the withdrawal of approval in sufficient detail to allow remediation.

(g) A proceeding under this chapter for the disapproval or withdrawal of approval is a contested case under Chapter 2001, Government Code.

Sec. 102.105. NOTICE OF QUALIFIED EDUCATIONAL ORGANIZATION STATUS. (a) Not later than the 60th day before the date on which a qualified educational organization sells the organization's first qualified charitable gift annuity, the organization shall:

(1) notify the department's annuities division in writing of the organization's intention to issue a charitable gift annuity; and

(2) request in writing the department's acknowledgment

of the organization as a qualified educational organization under this chapter.

(b) The notice required by this section must:

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

(2) identify the organization; and

(3) certify that:

(A) the organization is an institution of higher education or a private or independent institution of higher education as defined by Section 61.003, Education Code, or a foundation designated by the institution as described by Section 102.001(3); and

(B) the annuities issued by the organization are charitable gift annuities.

(c) On receipt of notice and request for acknowledgment under this section, the department shall acknowledge that the organization may issue a charitable gift annuity.

SECTION _____. Section 102.152, Insurance Code, is amended to read as follows:

Sec. 102.152. TREATMENT OF ANNUITY AS CHARITABLE GIFT ANNUITY; ESTOPPEL. In any litigation or other proceeding brought by or on behalf of a donor or the donor's heirs or distributees, an annuity that the donor has treated as a charitable gift annuity in a filing with the United States Internal Revenue Service shall be considered to be a qualified charitable gift annuity issued by a charitable organization or a qualified educational organization, as described by Subchapters A and B and Section 101.053(b).

SECTION _____. Section 1107.006, Insurance Code, is amended to read as follows:

Sec. 1107.006. MATURITY DATE. [~~(a)~~] In determining the value of benefits under Sections 1107.102, 1107.103, and 1107.104, [~~and subject to Subsection (b), if an annuity contract permits an election to have annuity payments begin on optional maturity dates,~~] the maturity date is [~~considered to be~~] the latest date on which an election is permitted by the contract, but [~~-~~

[~~(b) A maturity date determined under this section may~~] not [~~be~~] later than the later of:

(1) the next anniversary of the annuity contract that follows the annuitant's 70th birthday; or

(2) the 10th anniversary of the contract.

SECTION _____. Section 1115.102, Insurance Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) In addition to any other remedy available for a violation of this chapter, if the commissioner finds a pattern or practice of unsuitable sales of annuities, or such a pattern or practice is reasonably expected, because of the compensation offered by an insurer for the sale of annuities, the commissioner may, after notice and hearing, order the insurer to cease and desist or modify the compensation offered.

(d) An order issued under Subsection (c) may not include a regular salaried officer or employee of a licensed insurer, a jointly managed affiliate of a licensed insurer, or a licensed insurance agent if the officer or employee does not receive a commission or other compensation for the services of the officer or employee that is directly dependent on the amount of business done.

SECTION _____. Sections 2 and 3 of this Act apply only to an annuity that is delivered or issued for delivery on or after January 1, 2010. An annuity that is delivered or issued for delivery before January 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. Section 1107.006, Insurance Code, as amended by this Act, applies only to an annuity that is delivered or issued for delivery on or after June 1, 2010. An annuity that is delivered or issued for delivery before June 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. Section 1115.102, Insurance Code, as amended by this Act, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is covered by the law in effect when the conduct occurred, and the former law is continued in effect for that purpose.