

SUBJECT: Charitable gift annuities

COMMITTEE: Insurance — favorable, without amendment

VOTE: 5 ayes — Smithee, Averitt, Bonnen, Burnam, Olivo  
0 nays  
4 absent — Van de Putte, Eiland, G. Lewis, Wise

SENATE VOTE: On final passage, May 10 — 30-0

WITNESSES: *(On House companion, HB 3601)*  
For — Jack Kyle Daniels, Methodist Children's Hospital; William Katz, Charitable Accord and Baptist Foundation of Texas; Daniel Klein, Texas Presbyterian Foundation

Against — None

BACKGROUND : A charitable gift annuity (CGA) is a fund-raising vehicle by which a donor makes a gift to charity in exchange for a below-market annuity for life. The IRS Code allows donors to take charitable income, gift and estate tax deductions on the difference between the gift's value and the value of the annuity received in return by the donor. The IRS Code also distinguishes CGAs from “commercial type insurance.”

The 74th Legislature enacted HB 3104 by Junell, allowing certain legitimate charities to issue CGAs without regulation by the Department of Insurance if they notified donors that the annuities were not insurance products. Subsequently, a federal court ruling questioned whether the 1995 legislation was intended to apply to those charitable gift annuities whose status was being challenged at the time.

DIGEST: SB 1948 would declare that any annuity treated by the donor as a CGA for any federal tax purpose would be considered in any litigation or legal proceeding as a GCA meeting the qualifications and requirements established by HB 3104. The bill would specify that its provisions would apply to any charitable gift annuity issued before, on, or after the effective

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date of the legislation, including any CGA subject to a lawsuit, litigation or other proceeding pending before, on, or after that effective date.

SB 1948 would take immediate effect if finally approved by a two-thirds record vote of the membership of each house.