

## **BILL ANALYSIS**

Senate Research Center  
76R4114 DLF-D

C.S.S.B. 333  
By: Sibley  
Economic Development  
2/16/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, charitable annuities have been used for over 50 years in Texas. The 74th Legislature passed H.B. 3104 to clarify that, under existing law, charitable gift annuities have always been recognized as legal in Texas. However, a federal court ruled that current Texas law is unclear as to whether H.B. 3104 was intended to apply to those charitable gift annuities whose status was being challenged in pending lawsuits. This bill would clarify that H.B. 3104 applies to all charitable gift annuities, and that certain annuities are treated as charitable gift annuities.

### **PURPOSE**

As proposed, C.S.S.B. 333 provides that certain annuities are treated as charitable gift annuities, and applies the Insurance Code and certain other laws to charitable gift annuities.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2, Article 1.14-1A, Insurance Code, by adding Subsection (c), to require any person or entity involved in the issuance of a qualified charitable gift annuity to have immunity from suit as to any claim brought by certain people alleging that the issuance of a charitable gift annuity constitutes engaging in the business of insurance.

SECTION 2. Amends Article 1.14-1A, Insurance Code, by adding Section 7, as follows:

Sec. 7. TREATMENT OF ANNUITY AS CHARITABLE GIFT ANNUITY; ESTOPPEL.  
Requires an annuity that the donor has treated as a charitable gift annuity in an Internal Revenue Service filing to be considered a qualified charitable gift annuity issued by a charitable organization, in any litigation or other proceeding brought by or on behalf of a donor or the donor's heirs.

SECTION 3. Amends Section 51.014(a), Civil Practice and Remedies Code, to authorize a person to appeal an interlocutory order of a trial court that denies or otherwise fails to grant a motion for summary judgment that is based on an assertion of immunity arising under Section 1.14-1A, Insurance Code. Makes conforming changes.

SECTION 4. Provides that Sections 1, 2, 6 and 7, Article 1.14-1A, Insurance Code; Section 2(b), Article 1.14-1, Insurance Code; and Section 51.014(a)(6), Civil Practice and Remedies Code, apply to any charitable gift annuity issued before, on, or after the effective date of this Act. Provides that this section applies without regard to the effective date of the legislation enacting Article 1.14-1A, Insurance Code, or any other legislation that amended Article 1.14-1A, Insurance Code.

SECTION 5. Provides that this Act applies to any charitable gift annuity issued before, on, or after the effective date of this Act, including any charitable gift annuity that is the subject of litigation or another proceeding that is pending before, on, or after the effective date of this Act.

SECTION 6. Emergency clause.  
Effective date: upon passage.

## **SUMMARY OF COMMITTEE CHANGES**

- SECTION 1. Amends Section 2, Article 1.14-1A, Insurance Code, by adding Subsection (c), to require any person or entity involved in the issuance of a qualified charitable gift annuity to have immunity from suit as to any claim brought by certain people alleging that the issuance of a charitable gift annuity constitutes engaging in the business of insurance.
- SECTION 3. Amends Section 51.014(a), Civil Practice and Remedies Code, to authorize a person to appeal an interlocutory order of a trial court that denies or otherwise fails to grant a motion for summary judgment that is based on an assertion of immunity arising under Section 1.14-1A, Insurance Code.
- SECTION 4. Deletes the purpose of this section. Includes Section 7, Article 1.14-1A, Insurance Code and Section 51.014(a)(6), Civil Practice and Remedies Code, among the statutes which apply to any charitable gift annuity issued before, on, or after the effective date of this Act.
- SECTION 5. Provides that this Act applies to any charitable gift annuity issued before, on, or after the effective date of this Act, including any charitable gift annuity that is the subject of litigation or another proceeding that is pending before, on, or after the effective date of this Act, rather than just on the effective date of this Act.