

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 664

91ST GENERAL ASSEMBLY

1656L.01T

2001

AN ACT

To repeal sections 352.500, 352.505, 352.510, 352.515 and 352.520, RSMo 2000, relating to charitable gift annuities, and to enact in lieu thereof five new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 352.500, 352.505, 352.510, 352.515 and 352.520, RSMo 2000, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 352.500, 352.505,
3 352.510, 352.515 and 352.520, to read as follows:

352.500. As used in sections 352.500 to 352.520, the following terms [shall] mean:

- 2 (1) "Charitable gift annuity", a transfer of cash or other property by a donor to a
3 charitable organization in return for an annuity payable over one or two lives, under which the
4 actuarial value of the annuity is less than the value of the cash or other property transferred and
5 the difference in value constitutes a charitable deduction for federal tax purposes;
- 6 (2) "Qualified charitable gift annuity", a charitable gift annuity described in Section
7 501(m)(5) of the Internal Revenue Code, and Section 514(c)(5) of the Internal Revenue Code
8 that is issued by a charitable organization that on the date of the annuity agreement:
- 9 (a) Has a minimum of one hundred thousand dollars in unrestricted cash, cash
10 equivalents, or publicly traded securities, exclusive of the assets funding the annuity agreement;
11 and
- 12 (b) Has been in continuous operation for at least three years or is a successor or affiliate
13 of a charitable organization that has been in continuous operation for at least three years;
- 14 (3) "Qualified organization", an entity described in:
- 15 (a) 26 U.S.C. Section 501(c)(3) (1986); or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (b) 26 U.S.C. Section 170(c) (1986).

352.505. 1. A qualified organization that issues qualified charitable gift annuities shall
2 notify the department of insurance in writing by the later of ninety days after August 28, [1996]
3 **2001**, or the date on which it enters into the organization's first qualified charitable gift annuity
4 agreement. The notice must:

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

6 (2) Identify the organization; and

7 (3) Certify that:

8 (a) The organization is a qualified organization; and

9 (b) The annuities issued by the organization are qualified charitable gift annuities.

10 2. The organization shall be required to submit additional information if necessary to
11 determine appropriate penalties that may be applicable [under] **pursuant to** section 352.520.

352.510. When entering into an agreement for a qualified charitable gift annuity, the
2 qualified organization shall **promptly** disclose to the donor in writing in the annuity agreement
3 that a qualified charitable gift annuity is not insurance under the laws of this state and is not
4 subject to regulation by the department of insurance or protected by a guaranty association. The
5 notice provisions required by this section must be in a separate paragraph in a print size no
6 smaller than that employed in the annuity agreement generally.

352.515. The issuance of a qualified charitable gift annuity does not constitute engaging
2 in the business of insurance in this state. A charitable gift annuity issued before August 28,
3 [1996] **2001**, is a qualified charitable gift annuity for purposes of this chapter and the issuance
4 of such charitable gift annuity does not constitute engaging in the business of insurance in the
5 state.

352.520. The department of insurance may enforce performance of the requirements of
2 sections 352.505 and 352.510 by sending a letter by certified mail, return receipt requested,
3 demanding that the qualified organization comply with the requirements of sections 352.505 and
4 352.510. The department of insurance may fine the qualified organization in an amount not to
5 exceed one thousand dollars per qualified charitable gift annuity agreement issued until such
6 time as the qualified organization complies with sections 352.505 and 352.510. However, the
7 failure of a qualified organization to comply with the notice requirements imposed [under]
8 **pursuant to** section 352.505 or section 352.510 does not prevent a charitable gift annuity that
9 otherwise meets the requirements of [this act] **sections 352.500 to 352.520** from constituting a
10 qualified charitable gift annuity.