

## CHARITABLE GIFT ANNUITIES MODEL ACT

Section 1.	Scope
Section 2.	Definitions
Section 3.	Certificate of Authority
Section 4.	Surplus and Reserves
Section 5.	Investments
Section 6.	Annual Reports
Section 7.	Examination
Section 8.	Filing of Contracts
Section 9.	Disclosure
Section 10.	Other Applicable Code Provisions
Section 11.	Severability
Section 12.	Effective Date

### Section 1. Scope

This Act applies to charitable gift annuities issued by charitable organizations as herein defined and shall be known as the Charitable Gift Annuities Act.

### Section 2. Definitions

- A. (1) “Charitable gift annuity” means a transfer of cash or other property by a donor to a charitable organization in return for an annuity payable over one or two lives, under which the actuarial value of the annuity is less than the value of the cash or other property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.
- (2) “Charitable gift annuity” does not include a charitable remainder trust or a charitable lead trust or other similar arrangement where the charitable organization does not issue an annuity and incur a financial obligation to guarantee annuity payments.
- B. “Charitable organization” means an entity described by:
  - (1) Section 501(c)(3) Internal Revenue Code of 1986 [26 U.S.C. Section 501(c)(3)]; or
  - (2) Section 170(c), Internal Revenue Code of 1986 [26 U.S.C. Section 170(c)].

### Section 3. Certificate of Authority

- A. A charitable organization shall not receive transfer of property, conditioned upon its agreement to pay an annuity to the donor or other annuitant unless and until it has obtained from the commissioner a certificate of authority to issue charitable gift annuities.
- B. A charitable organization shall file with the commissioner its application for a certificate of authority. The application shall be in form prescribed and furnished by the commissioner and shall be verified by two (2) of the applicant’s officers. The application shall include or be accompanied by such proof as the commissioner may reasonably require that the applicant is qualified under this Act. At filing of the application the applicant shall pay to the commissioner the applicable filing fees as specified in [insert citation].
- C. If after such investigation as the commissioner deems advisable, the commissioner finds that the applicant is in sound financial condition and is otherwise qualified, the commissioner shall issue to the applicant a certificate of authority. If the commissioner does not so find, the commissioner shall deny issuance of the certificate of authority and notify the applicant in writing stating the reasons for denial.

- D. The certificate of authority of a charitable organization issued under this Act shall continue until suspended or revoked by the commissioner or terminated by the organization, subject to continuance each year by payment on or before March 1 of the continuance fee of \$[insert amount] and filing of the annual report.
- E. A person acting on behalf of a charitable organization to solicit the transfers of property in exchange for annuity payments shall not be required to be licensed; however, the person shall be authorized in writing by the charitable organization to act on its behalf. The charitable organization shall keep a file of current written authorizations.

**Section 4. Surplus and Reserves**

- A. A charitable organization authorized by this Act shall maintain a segregated account for its charitable gift annuities. The assets of the account are not liable for any debts of the charitable organization other than those incurred pursuant to the issuance of charitable gift annuities. The assets of the account shall at least equal in amount the sum of the reserves on its outstanding annuities plus a surplus of ten percent (10%) of the reserves.
- B.
  - (1) Reserves on the outstanding annuities shall not be less than reserves calculated using:
    - (a) The Commissioner's Annuity Reserve Valuation Method as defined in the charitable organization's domestic state standard valuation law;
    - (b) Any mortality table permitted under the charitable organization's domestic state standard valuation law to be used in determining the minimum standard for the valuation of individual annuities issued during the same calendar year as the charitable gift annuity; and
    - (c) The maximum interest rate permitted under the charitable organization's domestic state standard valuation law to be used in determining the minimum standard for the valuation of individual annuities issued during the same calendar year as the charitable gift annuity.
  - (2) In determining the reserves, a deduction shall be made for any portion of the annuity risk that is reinsured by an authorized insurer or reinsurer. For this purpose, any annuity contract purchased from an authorized insurer or reinsurer by the charitable organization is considered to be "annuity risk reinsured."
- C. The general assets of the charitable organization shall be liable for annuity agreements to the extent that the segregated account is inadequate.

**Section 5. Investments**

The segregated assets shall be invested in the same manner and subject to the same investment laws applicable to domestic life insurers found in [insert section].

**Section 6. Annual Reports**

- A. A charitable organization authorized under this Act shall annually file a report verified by at least two (2) principal officers with the commissioner covering the preceding fiscal year. The report is due ninety (90) days after the close of the charity's fiscal year or at a later date approved by the commissioner.
- B. The report shall be on forms prescribed by the commissioner and shall include:
  - (1) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding year;
  - (2) Any material changes in the information;
  - (3) The number of gift annuity contracts issued during the year, the number of gift annuity contracts as of the end of the year and the number of gift annuity contracts that terminated during the year;

- (4) The amount of annuity payments made during the year and the amounts transferred from the segregated account to the general account during the year; and
  - (5) Other information relating to the performance of the charitable gift annuity segment of the charitable organization necessary to enable the commissioner to:
    - (a) Issue certificates of authority;
    - (b) Ascertain maintenance of records;
    - (c) Evaluate solvency;
    - (d) Respond to consumer complaints; and
    - (e) Conduct hearings to determine compliance with this Act.
- C. A copy of a report containing the information required in Subsection B that has been filed in the state of domicile of the charitable organization will be deemed to satisfy the requirement of this section. The commissioner shall have the authority to request additional information.

#### **Section 7. Examination**

Whenever the commissioner determines it to be expedient, the commissioner may make or cause to be made an examination of the assets and liabilities and other affairs of the charitable organization as they pertain to annuity agreements entered into pursuant to this Act. The commissioner shall keep information obtained in the course of examinations confidential until the examination is completed. The reasonable expenses incurred for an examination shall be paid by the charitable organization.

#### **Section 8. Filing of Contracts**

- A. An authorized charitable organization shall file for information with the commissioner a copy of each form of agreement that it proposes to issue to donors in exchange for property transferred to the organization. {Within [insert number] days the commissioner shall approve or disapprove the proposed agreement forms and shall notify the charitable organization as soon as practicable.}

**Drafting Note:** Insert the bracketed material in prior approval states.

- B. Each annuity agreement form shall include the following information:
- (1) The value of the property to be transferred;
  - (2) The amount of the annuity to be paid to the donor or other annuitant;
  - (3) The manner in which and the intervals at which payment is to be made;
  - (4) The age and sex of the person or persons during whose life payment is to be made;
  - (5) The reasonable value as of the date of the agreement of the benefits created; and
  - (6) The date that payments are to begin.

#### **Section 9. Disclosure**

- A. Before accepting the property transferred in exchange for the annuity agreement, the organization shall obtain a signed statement from a prospective donor acknowledging the following terms of the agreement:
- (1) The value of the property transferred;
  - (2) The amount of the periodic annuity benefits to be paid;

- (3) The manner in which and the intervals at which payment is to be made;
  - (4) The reasonable value as of the date of the agreement of the benefits created; and
  - (5) The date that payments are to begin.
- B. In addition to the above disclosure, the charitable organization shall obtain a signed statement from a prospective donor acknowledging that he or she has been informed that payments made under a charitable gift annuity are backed solely by the full faith and credit of the organization, are not insured or guaranteed by an insurance company, are not protected by any insurance guaranty association, and are not backed in any way by the State of [insert state].
- C. The requirements of Subsection A and B may be satisfied by an acknowledgment that is a part of the annuity agreement that is signed by the donor.

**Section 10. Other Applicable Code Provisions**

- A. These provisions of the insurance code apply to the transactions covered by this Act:
- (1) [insert citation to receivership law];
  - (2) [insert citation to laws on hazardous financial condition];
  - (3) [insert citation to laws governing unfair trade practices]; and
  - (4) [insert citation to laws governing investments].
- B. The provisions of [insert reference to state guaranty association law] do not apply to charitable gift annuities.

**Drafting Note:** In order to ensure consistency and uniformity in state insurance laws, it is recommended that states adopting this model act also amend their state guaranty association statutes to comply with Section 5L(7) of the Life and Health Guaranty Association Model Act. That provision states that for the purpose of providing guaranty association protection to policy owners, insureds, beneficiaries, annuitants, payees and assignees, a “member insurer” shall not include “(a)n organization that has a certificate or license limited to the issuance of charitable gift annuities under [insert appropriate section of the state code.]”

**Section 11. Severability**

If any provision of this Act or the application of the provision to any circumstances is held invalid, the remainder of the Act or the application of the provision to other circumstances shall not be affected.

**Section 12. Effective Date**

This Act shall become effective [insert date] and shall apply to charitable gift annuities agreements entered into on or after the effective date.

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*Chronological Summary of Action (all references are to the Proceedings of the NAIC).*

*1998 Proc. 3<sup>rd</sup> Quarter 14-15, 518-519, 567-570 (adopted).*

## CHARITABLE GIFT ANNUITIES MODEL ACT

**This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state’s activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC’s interpretation may or may not be shared by the individual states or by interested readers.**

**This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.**

**CHARITABLE GIFT ANNUITIES MODEL ACT**

**KEY:**

**MODEL ADOPTION:** States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

**RELATED STATE ACTIVITY:** Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

**NO CURRENT ACTIVITY:** No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	NO CURRENT ACTIVITY	
Alaska		ALASKA STAT. § 21.03.070 (2001).
American Samoa	NO CURRENT ACTIVITY	
Arizona		ARIZ. REV. STAT. ANN. § 20-103 (1954/2014) (contracts are not insurance); § 20-119 (1997/2004).
Arkansas		ARK. CODE ANN. § 23-63-201 (1959/2013); CODE ARK. R. 054.00.090 (2010).
California		CAL. INS. CODE §§ 11520 to 11524 (1935/1995).
Colorado		COLO. REV. STAT. § 10-3-903 (1963/1998).
Connecticut		CONN. GEN. STAT. §§ 38a-1030 to 38a-1039 (1999).
Delaware		DEL. CODE ANN. tit. 18, § 2902 (1953/1983).
District of Columbia	NO CURRENT ACTIVITY	

**CHARITABLE GIFT ANNUITIES MODEL ACT**

<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Florida		FLA. STAT. § 627.481 (1974/2002); FLA. ADMIN. CODE ANN. r. 69O-202.001 to 69O-202.015 (1990/2003).
Georgia		GA. CODE ANN. §§ 33-58-1 to 33-58-6 (2000).
Guam	NO CURRENT ACTIVITY	
Hawaii		HAW. REV. STAT. § 431:1-204 (1987/2005).
Idaho		IDAHO CODE ANN. § 41-120 (1996).
Illinois		215 ILL. COMP. STAT. 5/121-2.10 (1995/1996).
Indiana		IND. CODE § 27-1-12.4 (1994).
Iowa		IOWA CODE §§ 508F.1 to 508F.8 (2001).
Kansas	NO CURRENT ACTIVITY	
Kentucky		KY. REV. STAT. ANN. § 304.1-120 (1970/2013).
Louisiana		LA. REV. STAT. ANN. §§ 22:951 to 22:952 (1958/1993).
Maine		ME. REV. STAT. ANN. tit. 24-A, §§ 703 to 703-A (1962/1995).
Maryland		MD. CODE ANN., INS. § 16-114 (1957/1996); MD. CODE REGS. 31.9.07.01 to 31.9.07.07 (1995).
Massachusetts		MASS. GEN. LAWS ch. 175, § 118 (1870/1968).
Michigan	NO CURRENT ACTIVITY	
Minnesota	NO CURRENT ACTIVITY	

**CHARITABLE GIFT ANNUITIES MODEL ACT**

<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Mississippi		MISS. CODE ANN. §§ 79-11-651 to 79-11-661 (2001).
Missouri		MO. REV. STAT. §§ 352.500 to 352.520 (1996/2001).
Montana		MONT. CODE ANN. §§ 33-20-701 to 33-20-702 (2003/2005).
Nebraska		NEB. REV. STAT. ANN. §§ 59-1801 to 59-1803 (1996).
Nevada		NEV. REV. STAT. §§ 688A.281 to 688A.285 (1999).
New Hampshire		N.H. REV. STAT. ANN. §§ 403-E:1 to 403-E:5 (1999).
New Jersey		N.J. STAT. ANN. § 17B:17-13.1 (1971/2004); N.J. ADMIN. CODE §§ 11:4-8.1 to 11:4-8.11 (1971/2005).
New Mexico		N.M. STAT. ANN. § 59A-1-16.1 (1999).
New York		N.Y. INS. LAW § 1110 (1984/2013).
North Carolina		N.C. GEN. STAT. § 58-3-6 (1998).
North Dakota		N.D. CENT. CODE §§ 26.1-34.1-01 to 26.1-34.1-07 (1991).
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma		OKLA. STAT. tit. 36, §§ 4071 to 4082 (1998).
Oregon		OR. REV. STAT. ANN. § 731.038 (2005).
Pennsylvania		10 PA. STAT. ANN. §§ 361 to 364 (1996).
Puerto Rico	NO CURRENT ACTIVITY	



**CHARITABLE GIFT ANNUITIES MODEL ACT**

<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Rhode Island	NO CURRENT ACTIVITY	
South Carolina		S.C. CODE ANN. § 38-5-20 (1987/1993).
South Dakota		S.D. CODIFIED LAWS §§ 58-1-16 to 58-1-17 (1994/2001).
Tennessee	TENN. CODE ANN. §§ 56-52-101 to 56-52-111 (2007/2012).	
Texas		TEX. INS. CODE ANN. § 102.051 (1999); §§ 102.101 to 102.104 (1995/1999).
Utah		UTAH CODE ANN. § 31A-1-301 (1985/2014); § 31A-22-1305 (1986).
Vermont		VT. STAT. ANN. tit. 9, §§ 2517 to 2518 (2001) (previous version of model); VT. STAT. ANN. tit. 8, § 3718a (2001) (previous version of model).
Virgin Islands	NO CURRENT ACTIVITY	
Virginia		VA. CODE ANN. §§ 38.2-106 to 38.2-106.1 (1986/1996).
Washington		WASH. REV. CODE ANN. §§ 48.38.010 to 48.38.075 (1979/2002); WASH. ADMIN. CODE 284-38-010 to 284-38-200 (1979).
West Virginia		W. VA. CODE §§ 33-13B-1 to 33-13B-6 (2006).
Wisconsin		WIS. STAT. § 632.65 (2014).
Wyoming	NO CURRENT ACTIVITY	

## CHARITABLE GIFT ANNUITIES MODEL ACT

### Proceedings Citations

Cited to the Proceedings of the NAIC

Prior to preparing the first draft of the model, the drafters reviewed the laws already in place in the states. Most had four major features in common: (1) a reserve requirement; (2) asset or investment requirements (solvency); (3) reporting requirements; and (4) examination requirements. **1996 Proc. 4<sup>th</sup> Quarter II 1031.**

A representative from a charitable organization association said there were three alternative approaches available for regulating charitable gift annuities: (1) regulate the charity; (2) issue an exemption; or (3) the law may be silent. He noted that in the past three years most activity on the state level has been adopting statutes that provide a conditional exemption for the charity. He suggested that the working group develop two alternative model statutes: one that regulated charities and one that a state could use to exempt charitable organizations from its laws. **1997 Proc. 1<sup>st</sup> Quarter 665.**

After the Charitable Gift Annuities Model Act was adopted by the group responsible for its drafting, it was forwarded to the Executive Committee for its approval. That committee voted to return it to the drafters with instructions to consider further issues. The group was asked to consider development of a companion model that would exempt charitable organizations from most state insurance laws. **1998 Proc. 1<sup>st</sup> Quarter 15.**

The drafters were also asked to consider the issue of guaranty fund coverage and a recommendation from the actuarial group that would make it easier to make the reserve calculations. **1998 Proc. 1<sup>st</sup> Quarter 14-15.**

#### Section 1. Scope

#### Section 2. Definitions

A. A regulator asked if there was a need to link the charitable deduction for federal tax purposes to the definition of charitable gift annuity. Another regulator responded that the availability of a charitable donation confirmed the legitimacy of an organization under the Internal Revenue Code. **1997 Proc. 1<sup>st</sup> Quarter 674.**

One member of the working group asked if the group intended to make the model as broad as possible to cover anything that would look or act like a charitable gift annuity. The drafter said that most states have laws that address annuities and the purpose of this model was to create less restrictive requirements for charities that wish to provide annuities. **1997 Proc. 1<sup>st</sup> Quarter 674.**

#### Section 3. Certificate of Authority

The model section defined five areas that were most commonly addressed in state laws on charitable gift annuities. A regulator asked if a surety should be required to make sure the funds were available when needed. Another regulator responded that his state did not require them because of the additional cost to the charity. **1996 Proc. 4<sup>th</sup> Quarter II 1031.**

An interested party put a question to the working group: do the certification requirements in the model apply only to the state where the company is located, or whenever it does business? The chair responded that the charity would need a certificate in any state in which it was soliciting annuities. **1997 Proc. 4<sup>th</sup> Quarter 775.**

#### Section 4. Surplus and Reserves

A. One regulator mentioned that his state required a segregated account and stated that provided a basic protection for charitable gift annuitants. Another regulator said his state's regulation had been drafted that way originally, but he had been told at the hearing that it would mean the charitable gift annuity would not qualify as a donation under federal law. The chair offered to look into that assertion. **1996 Proc. 4<sup>th</sup> Quarter II 1031.**

A regulator from one state said his state did not have a surplus requirement because the purpose of a charitable organization was to spend its money for charitable purposes. **1997 Proc. 1<sup>st</sup> Quarter 674.**

One regulator questioned the draft and its blanks for states to insert a dollar amount and pointed out that the charitable gift industry indicated an interest in states adopting consistent numbers for a surplus requirement. **1997 Proc. 1<sup>st</sup> Quarter 674, 676.**

## CHARITABLE GIFT ANNUITIES MODEL ACT

### Proceedings Citations

Cited to the Proceedings of the NAIC

#### Section 4 (cont.)

B. The first draft referred to the reserve standards of the American Council of Gift Annuities. The drafter reported that many organizations use those rates, and he had reviewed them and found them to be conservative. The first draft also referred to the Standard Valuation Law. A regulator commented that many charities had come to his state's regulation hearing and asked the state to delete a requirement to comply with the reserve requirements of the Standard Valuation Law. He said charities found this to be an onerous requirement because they did not have an actuary to calculate these reserves and did not wish to spend funds to hire one. **1996 Proc. 4<sup>th</sup> Quarter II 1031.**

An interested party commented that the lack of uniformity in states on the issue of reserve standards caused great difficulties. Different filing dates meant that it was necessary to recalculate the assumptions for reserves. **1996 Proc. 4<sup>th</sup> Quarter II 1031.**

A regulator asked if Paragraph (1) should specify “the greater of” rather than “either” of the alternatives in the subparagraphs. The drafter said that language would allow each charity to choose the standard that it wished to use, thereby giving charities more flexibility. Another regulator suggested that it was simpler to use one table rather than to offer alternatives, which tended to confuse people. **1997 Proc. 1<sup>st</sup> Quarter 674.**

One member of the group asked what the downside would be if the reserves were inadequate or too high. The drafter responded that, if the reserves were set too high, the money would not be available to use now. If the reserves were deficient, funds might not be available to provide the annuity. The first regulator responded that setting the reserves correctly was important and suggested that charitable organizations should be subject to the same degree of actuarial scrutiny as the department used for insurers' annuities. **1997 Proc. 1<sup>st</sup> Quarter 674.**

A regulator pointed out that the American Council of Gift Annuities could change its rates periodically, and they might become inadequate. The working group members agreed to delete reference to the organization from the draft. **1997 Proc. 1<sup>st</sup> Quarter 674.**

Representatives from the American Council of Gift Annuities spoke in favor of the NAIC's project to achieve some degree of uniformity in state law and noted that it was not easy for charities to deal with a wide variety of state requirements. They pointed out that the Council suggested rates were informational only because the Council had no authority to make a charity follow its recommendations. **1997 Proc. 1<sup>st</sup> Quarter 665.**

The American Academy of Actuaries expressed interest in providing input on the issue of reserves. A regulator opined that this was the only open issue before adoption of the model. **1997 Proc. 2<sup>nd</sup> Quarter 616.**

The Academy recommended that the minimum reserves required should be the same as the standards included in the Standard Valuation Law, including the Commissioners' Annuity Reserves Valuation Method (CARVM) with one exception: that the maximum valuation interest rate be 100 basis points below what is required for insurers. He explained that many of the charities soliciting charitable gift annuities are small and thus may not be able to command the best interest rate on their investments. The chair asked what effect that would have. The Academy representative responded that it would give them a 5–10% greater reserve. If minimum surplus was required, that surplus should be equal to 10% of the reserves required under the Act. **1997 Proc. 4<sup>th</sup> Quarter II 775.**

Shortly before adoption of the model, the parent committee made a change to the model so that the maximum interest rate for charitable gift annuities would not be 100 basis points less than that permitted under the state Standard Valuation Law. **1998 Proc. 1<sup>st</sup> Quarter 679.**

The model was sent back to the drafting committee with instructions to consider additional recommendations from the actuarial committee to address a concern about possible inconsistencies from state to state in the Standard Valuation Law. The suggested wording required the charity to follow the Standard Valuation Law of its domestic state. **1998 Proc. 3<sup>rd</sup> Quarter 568-569, 572.**

## CHARITABLE GIFT ANNUITIES MODEL ACT

### Proceedings Citations

Cited to the Proceedings of the NAIC

#### Section 5. Investments

The drafter pointed out that Section 5 required that assets in the segregated account be invested according to the laws governing investments of life insurers. A regulator commented that charities had urged instead the application of the prudent person standard under trust law. **1996 Proc. 4<sup>th</sup> Quarter II 1032.**

Another regulator said that charities in his state were not subject to the investment laws or the Standard Valuation Law. He said the charitable organizations were limited to very safe and liquid investments like government bonds. **1996 Proc. 4<sup>th</sup> Quarter II 1032.**

A regulator suggested adding more conservatism to the investment section because many charities are smaller and thinly capitalized. Another regulator asked if any charities had been unable to pay on their charitable gift annuities. The Planned Giving Association said no charities had failed to pay on their annuities. Another member of the working group pointed out that, if the working group followed the suggestion, it needed to allow the commissioner to grant an exception because some charities were clearly well capitalized and able to make payments. The Academy representative said that some charitable organization agreements did not actually promise to pay and that would affect the reserves required. **1997 Proc. 2<sup>nd</sup> Quarter 616.**

#### Section 6. Annual Reports

A. The working group considered the draft provision requiring all reports to be filed on March 1. The drafter noted that earlier comments received had indicated an advantage to having reports due on the same day in all states. The group decided to insert a provision requiring reports 90 days after the end of the charity's fiscal year, with an option for that date to be extended by the commissioner. **1997 Proc. 1<sup>st</sup> Quarter 674.**

B. A regulator suggested a change to Paragraph (5)(c). He said the language "insure solvency" might make the commissioner to blame if the insolvency of a charity occurred. The working group agreed that language was too strong and substituted the language "evaluate solvency." **1997 Proc. 1<sup>st</sup> Quarter 674.**

An interested party commented that Paragraph (1) referred to the financial statement of an organization, but perhaps it really meant a financial statement covering the segregated annuity fund. A regulator suggested that the language remain as drafted because information on the financial condition of the whole organization would be helpful in seeing if it can fulfill its obligations. He noted that the model calls for backing the annuity with the full faith and credit of the organization. **1997 Proc. 2<sup>nd</sup> Quarter 616.**

C. A concern was raised by an interested party that allowing a form prescribed by the commissioner would create additional work as charities prepared various reports with substantially identical information in different formats. Language was added as Subsection C to address this concern. **1997 Proc. 2<sup>nd</sup> Quarter 617-618.**

#### Section 7. Examination

The chair asked if the working group members thought insurance departments should be examining the charities. A regulator responded that the charities would not want to pay for such an examination, and another regulator added that the states may not have the staff to examine charities. **1996 Proc. 4<sup>th</sup> Quarter II 1032.**

#### Section 8. Filing of Contracts

## CHARITABLE GIFT ANNUITIES MODEL ACT

### Proceedings Citations

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#### Section 9. Disclosure

B. The working group decided to add a disclosure stating that the charitable gift annuity was not covered by the states' insurance guaranty fund. **1996 Proc. 4<sup>th</sup> Quarter II 1031.**

The model was returned to the working group with instructions to consider guaranty fund issues more carefully. The group responsible for drafting changes to the guaranty fund law suggested additions to both Sections 9 and 10 because regulators saw an advantage in making absolutely clear that there was no coverage for charitable gift annuities under the guaranty fund. **1998 Proc. 3<sup>rd</sup> Quarter 572.**

#### Section 10. Other Applicable Code Provisions

The model was returned to the working group with instructions to consider guaranty fund issues more carefully. The group responsible for drafting changes to the guaranty fund law suggested additions to both Sections 9 and 10 because regulators saw an advantage in making absolutely clear that there was no coverage for charitable gift annuities under the guaranty fund. **1998 Proc. 3<sup>rd</sup> Quarter 572.**

A trade association recommended the addition of a drafting note referring states to the amendments made to the guaranty fund law. **1998 Proc. 3<sup>rd</sup> Quarter 567, 570.**

#### Section 11. Severability

#### Section 12. Effective Date

Staff asked if the model would cover existing agreements or just new agreements entered into after the effective date. The working group agreed to make the model prospective in nature, and to add language to say that. **1997 Proc. 2<sup>nd</sup> Quarter 616.**

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*Chronological Summary of Actions*

*December 1998: Adopted model.*