

SENATE BILL 15

C4

(71r0063)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Charitable Gift Annuities – Special Permit Holders – Required**
3 **Financial Statements**

4 FOR the purpose of requiring a holder of a special permit needed to make agreements with
5 donors for annuity payments to certain entities to submit to the Maryland Insurance
6 Commissioner ~~a certain financial statement~~ statements instead of an annual report;
7 requiring the financial ~~statement~~ statements to be ~~prepared~~ audited by a certain
8 individual and presented in a certain manner; authorizing the Commissioner to
9 waive the requirement to submit the financial ~~statement~~ statements under certain
10 circumstances; making clarifying and conforming changes; and generally relating to
11 special permit holders and charitable gift annuities.

12 BY repealing and reenacting, with amendments,
13 Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Section 16–114
 2 Annotated Code of Maryland
 3 (2011 Replacement Volume and 2016 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 5 That the Laws of Maryland read as follows:

6 **Article – Insurance**

7 16–114.

8 (a) In this section, “community foundation” means a nonprofit organization that
 9 is:

10 (1) formed to receive contributions and distribute money to meet cultural,
 11 educational, charitable, environmental, civic, or other similar needs of a community; and

12 (2) governed by a board of private citizens who reside in the community.

13 (b) An educational or religious organization, hospital, or community foundation
 14 may not make or issue in the State agreements for annuity payments with donors until it
 15 has obtained from the Commissioner a special permit issued in accordance with this
 16 section.

17 (c) (1) On application, the Commissioner may issue a special permit to make
 18 agreements for annuity payments with donors to an educational or religious organization
 19 not conducted for profit and engaged in bona fide educational or religious activities, to a
 20 hospital in the State, or to a community foundation if the educational or religious
 21 organization, hospital, or community foundation:

22 (i) except as provided in paragraph (2) of this subsection, has been
 23 in active operation in the State for at least 10 years before issuance of the special permit;
 24 and

25 (ii) has been granted exemption from federal income taxation under
 26 § 501 of the Internal Revenue Code.

27 (2) The Commissioner may issue a special permit to a community
 28 foundation that has been in existence for at least 5 years but less than 10 years if the
 29 community foundation maintains [admitted] assets in an amount up to 100% of the
 30 contributions made to the community foundation, as determined by the Commissioner.

31 (d) (1) Each special permit holder shall have and maintain [admitted] assets
 32 at least equal to adequate reserves on its outstanding agreements for annuity payments
 33 with donors as indicated by its [annual report] ~~CERTIFIED AUDITED FISCAL YEAR-END~~
 34 ~~FINANCIAL STATEMENTS~~ FINANCIAL STATEMENTS.

1 (2) In determining the reserves of a special permit holder on outstanding
2 agreements for annuity payments with donors, a deduction shall be made for all or part of
3 an annuity risk that is reinsured by an authorized life insurer.

4 (3) (I) [A] SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A
5 special permit holder shall submit [an annual report] ANNUALLY ~~A CERTIFIED~~ AUDITED
6 FISCAL YEAR-END FINANCIAL ~~STATEMENT~~ STATEMENTS to the Commissioner within
7 ~~90~~ 180 days after the end of the special permit holder's fiscal year.

8 (II) THE FINANCIAL ~~STATEMENT~~ STATEMENTS REQUIRED
9 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE:

- 10 1. ~~PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT;~~
11 ~~AND~~
- 12 ~~2.~~ PRESENTED IN CONFORMITY WITH GENERALLY
13 ACCEPTED ACCOUNTING PRINCIPLES; AND
- 14 2. AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT.

15 (4) The [annual reports] ~~CERTIFIED~~ AUDITED FISCAL YEAR-END
16 FINANCIAL ~~STATEMENT~~ STATEMENTS shall be treated as confidential by the
17 Commissioner and ~~are~~ is not available for public inspection.

18 (5) ON APPLICATION BY THE SPECIAL PERMIT HOLDER, THE
19 COMMISSIONER:

20 (I) MAY WAIVE THE REQUIREMENT OF ~~A CERTIFIED~~ AUDITED
21 FISCAL YEAR-END FINANCIAL ~~STATEMENT~~ STATEMENTS; AND

22 (II) MAY REQUIRE INSTEAD ADDITIONAL DOCUMENTS OR
23 INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY.

24 (e) A special permit issued under this section authorizes the special permit holder
25 to receive gifts of money or other property conditional on, or in consideration of, the special
26 permit holder's agreement to pay an annuity to the donor or the donor's nominee and to
27 make and carry out agreements for annuity payments with donors.

28 (f) A special permit is in effect only as long as the special permit holder is exempt
29 from federal income taxation under § 501 of the Internal Revenue Code.

30 (g) (1) If the Commissioner finds, after notice and hearing, that a special
31 permit holder has failed to comply with the requirements of this section or is not exempt

1 from federal income taxation under § 501 of the Internal Revenue Code, the Commissioner
2 may:

3 (i) revoke or suspend the special permit; or

4 (ii) order the special permit holder to stop making new agreements
5 for annuity payments with donors until the requirements have been satisfied.

6 (2) In case of revocation or suspension, outstanding agreements for annuity
7 payments with donors shall remain in force.

8 (3) The action of the Commissioner under this subsection is subject to
9 judicial review under § 2–215 of this article.

10 (h) (1) Except as otherwise provided in this section, a special permit holder is
11 exempt from the provisions of this article with respect to issuing annuities.

12 (2) Special permit holders are not subject to a law enacted after June 1,
13 1957, unless they are expressly designated in the law.

14 (i) (1) Other than by agreements for annuity payments with donors, an
15 educational or religious organization, hospital, or community foundation may agree to:

16 (i) accept conditional donations; and

17 (ii) pay to the donor or the donor's nominee a specified return
18 established with reference to the actual net earnings of the particular donation or with
19 reference to the actual or estimated earnings of a specified fund of the donee organization.

20 (2) An educational or religious organization, hospital, or community
21 foundation that accepts conditional donations and pays a specified return to donors under
22 paragraph (1) of this subsection is exempt from this section and all other provisions of this
23 article with respect to issuing annuities.

24 (3) Educational or religious organizations, hospitals, or community
25 foundations that accept conditional donations and pay specified returns to donors under
26 this subsection are not subject to any law enacted after June 1, 1957, unless they are
27 expressly designated in the law.

28 (j) Notwithstanding the absence of express power in the charter of a domestic
29 educational, religious, or hospital corporation or community foundation, the corporation or
30 community foundation may make the agreements for annuity payments with donors or
31 other agreements with respect to conditional donations that are expressly allowed by this
32 section.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.