HOUSE BILL NO. 1426

AN ACT TO PROVIDE FOR THE REGULATION OF CHARITABLE ANNUITY CONTRIBUTIONS; TO DEFINE CERTAIN TERMS; TO CLARIFY THAT A CHARITABLE GIFT ANNUITY IS NOT INSURANCE; TO PROVIDE FOR NOTICE TO A DONOR AND NOTICE TO THE SECRETARY OF STATE; TO CLARIFY THAT FAILURE TO PROVIDE NOTICE DOES NOT PREVENT THE QUALIFICATION OF A CHARITABLE GIFT ANNUITY; TO PROVIDE THAT THE ISSUANCE OF A QUALIFIED CHARITABLE GIFT ANNUITY IS NOT A VIOLATION OF UNFAIR TRADE PRACTICE LAWS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following words and phrases shall have the meanings ascribed herein, unless the context clearly indicates otherwise:

(a) "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 (1) or two (2) 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.

(b) "Charitable organization" means an entity described by:

(i) Section 501(c)(3), Internal Revenue Code of 1986 (26 USCS Section 501(c)(3)); or

(ii) Section 170(c), Internal Revenue Code of 1986 (26 USCS Section 170(c)).

(c) "Qualified charitable gift annuity" means a charitable gift annuity described in Section 501(m)(5), Internal Revenue Code of 1986 (26 USCS Section 501(m)(5)), and Section 514(c)(5), Internal Revenue Code of 1986 (26 USCS Section...
514(c)(5)), that is issued by a charitable organization that on
the date of the annuity agreement:

   (i) Has a minimum of Three Hundred Thousand
Dollars ($300,000.00) in unrestricted cash, cash equivalents, or
publicly traded securities, exclusive of the assets funding the
annuity agreement; and

   (ii) Has been in continuous operation for at least
three (3) years or is a successor or affiliate of a charitable
organization that has been in continuous operation for at least
three (3) years.

SECTION 2.  (1) The issuance of qualified charitable gift
annuity does not constitute engaging in the business of insurance
in this state.

(2) A charitable gift annuity issued before July 1, 2001, is
a qualified charitable gift annuity for purposes of this act, and
the issuance of that charitable gift annuity does not constitute
engaging in the business of insurance in this state.

SECTION 3.  (1) When entering into an agreement for a
qualified charitable gift annuity, the charitable organization
shall disclose to the donor in writing in the annuity agreement
that a qualified charitable gift annuity is not insurance under
the laws of this state and is not subject to regulation by the
Insurance Commissioner or protected by an insurance guaranty
association.

(2) The notice provisions required by this section must be
in a separate paragraph of the agreement in a print size no
smaller than that employed in the annuity agreement generally.

SECTION 4.  (1) A charitable organization that issues
qualified charitable gift annuities shall notify the Secretary of
State in writing by the later of ninety (90) days after the
effective date of this act or the date on which it enters into the
organization's first qualified charitable gift annuity agreement.
The notice shall:
ST: Charitable annuity contributions; regulate

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

(b) Identity of the organization;

(c) Certify that:

(i) The organization is a charitable organization;

and

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

(2) The organization shall not be required to submit additional information except to determine appropriate penalties that may be applicable under Section 5 of this act.

SECTION 5. The failure of a charitable organization to comply with the notice requirements imposed under Section 3 or 4 of this act does not prevent a charitable gift annuity that otherwise meets the requirements of this act from constituting a qualified charitable gift annuity. The Secretary of State may enforce performance of the requirements of Sections 3 and 4 of this act by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with the requirements of Sections 3 and 4 of this act. The Secretary of State may fine the charitable organization in an amount not to exceed One Thousand Dollars ($1,000.00) per qualified charitable gift annuity agreement issued until such time as the charitable organization complies with Sections 3 and 4 of this act.

SECTION 6. The issuance of a qualified charitable annuity does not constitute a violation of the Unfair Trade Practices Laws.

SECTION 7. The Secretary of State is authorized to promulgate any rules and regulations necessary to carry out the provisions of this act.

SECTION 8. This act shall take effect and be in force from and after July 1, 2001.