

LEGISLATIVE COMMITTEE MINUTES

HB527

Bill as Introduced

HB 527 - AS AMENDED BY THE HOUSE

5Jan2022... 2185h

2021 SESSION

21-0662

04/08

HOUSE BILL **527**

AN ACT relative to the charitable gift annuities exemption.

SPONSORS: Rep. Infantine, Hills. 13

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill adds an exemption for a qualified charitable gift annuity issued by a charitable organization.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the charitable gift annuities exemption.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Charitable Gift Annuities Exemption; Definition of Qualified Charitable Gift
2 Annuity. Amend RSA 403-E:1 by inserting after paragraph V the following new paragraph:

3 VI.(a) "Qualified charitable gift annuity" also means a charitable gift annuity described by
4 section 501(m)(5), Internal Revenue Code of 1986 (26 U.S.C. section 501(m)(5)), and section 514(c)(5),
5 Internal Revenue Code of 1986 (26 U.S.C. 514(c)(5)), that is issued by a charitable organization that
6 on the date of the annuity agreement:

7 (1) Has a minimum of \$25,000 in unrestricted cash, cash equivalents, or publicly
8 traded securities, exclusive of the assets funding the annuity agreement;

9 (2) Has been in continuous operation for at least 3 years or is a successor or affiliate
10 of a charitable organization that has been in continuous operation for at least 3 years;

11 (3) Issues charitable gift annuities with payout ratios no greater than recommended
12 by the American Council on Gift Annuities at the time of issuance; and

13 (4) Within 5 business days of receiving funds for a charitable gift annuity, re-insures
14 said annuity by purchasing an annuity contract from a commercial insurance company licensed to
15 transact business in the state of New Hampshire, and such insurer carrier assumes all risk,
16 administration, and payment responsibility.

17 (b) A charitable organization that meets the requirements of subparagraph (a) may
18 expend, or reallocate for current or future use, any residual balance that may remain after
19 purchasing the commercially-insured annuity.

20 2 Charitable Gift Annuities Exemption; Disclosures. Amend RSA 403-E:3, II(a)(3)(B)
21 to read as follows:

22 (B) The annuities issued by the organization shall be limited to qualified
23 charitable gift annuities, as defined in RSA 403-E:1, V *or RSA 403-E:1, VI.*

24 3 Charitable Gift Annuities Exemption; Disclosures. Amend RSA 403-E:3, II(b) to
25 read as follows:

26 (b) Subsequently, each charitable organization that issues qualified charitable annuities
27 shall, as part of its report submitted to the director pursuant to RSA 7:28, II and III, annually
28 recertify that the annuities issued by the organization shall be limited to qualified charitable gift
29 annuities, as defined in RSA 403-E:1, V *or RSA 403-E:1, VI.*

30 4 Effective Date. This act shall take effect 60 days after its passage.

Committee Minutes

SENATE CALENDAR NOTICE
Ways and Means

Sen Bob Giuda, Chair
Sen Lou D'Allesandro, Vice Chair
Sen Gary Daniels, Member
Sen Erin Hennessey, Member
Sen Cindy Rosenwald, Member

Date: February 23, 2022

HEARINGS

Wednesday

03/09/2022

(Day)

(Date)

Ways and Means

State House 100

9:00 a.m.

(Name of Committee)

(Place)

(Time)

9:00 a.m.	HB 102	establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.
9:10 a.m.	HB 355	relative to Keno.
9:20 a.m.	HB 364	revising the definition of charitable organizations relative to games of chance.
9:30 a.m.	HB 527	relative to the charitable gift annuities exemption.
9:40 a.m.	HB 591-FN	relative to certain liquor license fees.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 102

Rep. Schamberg

HB 355

Rep. Lang

Rep. Bordes

HB 364

Rep. Ulery

HB 527

Rep. Infantine

HB 591-FN

Rep. Abrami

Rep. Johnson

Rep. Hough

Rep. Trottier

Rep. Stapleton

Rep. Doucette

Rep. Weyler

Sen. Bradley

Sonja Caldwell 271-2117

Bob J. Giuda
Chairman

Senate Ways and Means Committee

Sonja Caldwell 271-2117

HB 527, relative to the charitable gift annuities exemption.

Hearing Date: March 9, 2022

Members of the Committee Present: Senators Giuda, Daniels, Hennessey and Rosenwald

Members of the Committee Absent : Senator D'Allesandro

Bill Analysis: This bill adds an exemption for a qualified charitable gift annuity issued by a charitable organization.

Sponsors:
Rep. Infantine

Who supports the bill: Stephen Mathieu (small charities/501(c) organizations)

Who opposes the bill: No one

Who is neutral on the bill: Tom Donovan (Director of Charitable Trusts)

Summary of testimony presented:

Sen. Hennessey introduced the bill as the sponsor was not present. The bill is relative to the charitable gift annuities exemption.

Tom Donovan – Director of Charitable Trusts

- No position on the bill.
- Charitable gift annuities are a fundraising mechanism for charities.
- Some colleges promote them for older alumni. You can give a large amount and the college will pay you an annuity the rest of your life.
- Under statute, the annuity must follow requirements.
- They have to report to the Division of Charitable Trusts that they are following the checklist.
- This would enlarge the category of charities that can offer the annuities.

Sen. Rosenwald said she struggled to understand the bill. When she read the current statute, it looks like charitable gift annuities had to stay with the organization that does them. Under this bill, they can now subcontract it to another group that only has to have \$25,000 rather than \$300,000. She asked if that was enough of a threshold to make sure the annuity can be paid out.

Mr. Donovan said the current law requires certain cash reserves by the charity that is holding the annuity. The expectation is the charity is paying out the annuity. This bill would allow them to sell

the annuity to a commercial annuity company who would have enough assets of their own to be in charge of it.

Sen. Rosenwald asked if Dartmouth college sells an annuity, she understands that they have to have \$300,000 but by allowing the secondary sale, she asked wouldn't it be logical to assume that a company that specialized in these would have more assets than \$25,000. She asked where that number came from.

Mr. Donovan explained the \$25,000 is for the charity to have, not the company. To be licensed as an annuity company, they would fall under the Insurance Dept. rules.

Sen. Giuda asked if the \$25,000 threshold makes sure we won't have a bunch of small charities doing this.

Mr. Donovan said yes.

Steven Mathieu – Legacy Financial Solutions, LFS Tax Group

- He owns an accounting and tax firm and an investment advisory firm. He has advised many clients. He has founded donor advised foundations to help small charities raise money.
- One of the big problems for small charities is raising money.
- One of the things large charities can do is offer these annuities.
- If someone donates \$100,000, the charitable organization can give them an annuity for the rest of their life. They calculate a defined dollar amount that they give them. If the donor went to a commercial insurance organization and did the exact same thing, the payout they would get would be higher but by going through the charitable organization they get tax benefits up front. Even a large charity can't spend the residual balance until the annuitant dies.
- Right now, the law says you must have \$300,000 of unrestricted assets in order to be able to offer a charitable gift annuity.
- This bill allows a charity with \$25,000 to offer an annuity by subrogating the liability out to a commercial insurer to make the payments. The insurance company will charge a fee for doing it. The donor still gets the same tax deduction, but it will cost the charity possibly an extra \$5,000 to subrogate the liability to the insurance company. Doing so allows the charity to use the funds right now.

Sen. Hennessey asked why this RSA is in the Charitable Trust Division and not the Insurance Dept.

Mr. Mathieu said it falls under the Division of Charitable Trusts. All it does is allow a charity to subrogate the liability to an insurance carrier licensed to do business in NH. The charity is taking the money and instead of the charity paying the monthly annuity, they have the commercial insurance company pay the annuity. Currently we do not allow charities to sell annuities. Because of the \$300,000 threshold, only the very large charities, like large colleges, universities, or major national organizations can do this.

Sen. Rosenwald asked if this would bring more insurers into NH or increase their business and what would be the impact on insurance premium tax revenues.

Mr. Mathieu said it would have a negligible effect. Financial advisors don't even recommend these. The amount of income people can get from these is negligible. It will not have a big impact on insurance companies and will not attract any new companies. One thing that was left out of the bill that he originally proposed is including "donor advised foundations". He wants that added. The reason he had that in was because a lot of charities can't afford the expense of accounting and all the

things associated with maintaining records for a charitable organization. Donor advised foundations are affiliates of much larger organizations.

Sen. Giuda asked if as a donor advised foundation, he would give money to the foundation and would advise it in terms of placement of the annuity.

Mr. Mathieu said no; they cannot be advisors on a foundation they help establish.

A donor advised foundation is a sub organization of a large organization. Once you put money in you get a full tax deduction. You can recommend that the larger charitable organization make a grant every year.

Mr. Donovan

- The language about donor advised funds was removed because of reservations the Charitable Trust Division had. They thought this opportunity should go to working charities. Donor advised funds are a type of investment account for individuals. They are concerned that if a donor were contributing a charitable gift annuity to their own donor advised fund, they could control the portion of the annuity that would otherwise go to the charity. They could then use it in future years to make contributions.

Mr. Mathieu

- That is a common misconception regarding donor advised funds. Once you give money to the donor advised fund, it's part of the larger organization and you don't have control over the money anymore except for the ability to recommend they make grants on a periodic basis to charities you recommend. You have no control over the investments or the distributions. The larger charity has to make those decisions.

Sen. Rosenwald asked if she set up a donor advised foundation with a million dollars, could she set up the advisors and name her children.

Mr. Mathieu said she can recommend the donor advisors, but she would not have direct control over it. The one that has ultimate control over it is the charitable organization.

Sen. Rosenwald asked if she could set up her own foundation and name her children as the advisors and they'd be paying her an annuity.

Mr. Mathieu said a private foundation is a separate thing.

sc

Date Hearing Report completed: March 11, 2022

Speakers

SENATE WAYS & MEANS COMMITTEE

Date 03/9/22

Time 10:30 a.m.

Public Hearing on

HB527

(relative to the charitable gift annuities exemption.)

Please check box(es) that apply.

	SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Tom Donovan	Director of Charitable Trusts
✓	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stephen Mathieu	Small Charities 501(c) organizations
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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Insp Only

Voting Sheets

Senate Ways & Means Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # **HB527**

Hearing date: 3-9-22

Executive Session date: 4-20

Motion of: ITL Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Giuda, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. D'Allesandro, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Daniels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Giuda, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. D'Allesandro VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Daniels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Giuda, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. D'Allesandro, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Daniels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Hennessey

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, April 20, 2022

THE COMMITTEE ON Ways and Means

to which was referred **HB 527**

AN ACT relative to the charitable gift annuities exemption.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

Senator Erin Hennessey
For the Committee

This bill sought to allow smaller charities, with assets of \$25,000, to offer charitable gift annuities as a fundraising mechanism. Under current law, only charities with \$300,000 in assets can offer such annuities. Under this bill, a charity would sell the annuity to a commercial insurer who would make the annuity payments. The committee did not hear from any charities requesting the ability to offer these annuities and felt there were too many unanswered questions with regard to the oversight and regulation of such annuities.

Sonja Caldwell 271-2117

FOR THE CONSENT CALENDAR

WAYS AND MEANS

HB 527, relative to the charitable gift annuities exemption.

Inexpedient to Legislate, Vote 5-0.

Senator Erin Hennessey for the committee.

This bill sought to allow smaller charities, with assets of \$25,000, to offer charitable gift annuities as a fundraising mechanism. Under current law, only charities with \$300,000 in assets can offer such annuities. Under this bill, a charity would sell the annuity to a commercial insurer who would make the annuity payments. The committee did not hear from any charities requesting the ability to offer these annuities and felt there were too many unanswered questions with regard to the oversight and regulation of such annuities.

Docket of HB527**Bill Title:** relative to the charitable gift annuities exemption.**Official Docket of HB527.:**

Date	Body	Description
1/12/2021	H	Introduced (in recess of) 01/06/2021 and referred to Commerce and Consumer Affairs HJ 2 P. 52
2/2/2021	H	Public Hearing: 02/10/2021 10:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95521072179 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/2/2021	H	Executive Session: 03/02/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95215897452
3/3/2021	H	Executive Session: 03/03/2021 01:30 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/98917516497 (if necessary)
3/9/2021	H	Retained in Committee
8/17/2021	H	Subcommittee Work Session: 09/21/2021 02:00 pm LOB 302-304
10/6/2021	H	Subcommittee Work Session: 10/12/2021 09:00 am LOB 301-303
10/26/2021	H	Executive Session: 10/26/2021 10:00 a.m. LOB306-308
11/3/2021	H	Committee Report: Ought to Pass with Amendment #2021-2185h 11/02/2021 (Vote 17-2; CC) HC 48 P. 5
1/10/2022	H	Amendment #2021-2185h : AA VV 01/05/2022 HJ 1
1/10/2022	H	Ought to Pass with Amendment 2021-2185h: MA VV 01/05/2022 HJ 1
1/18/2022	S	Introduced 01/05/2022 and Referred to Ways and Means; SJ 2
2/23/2022	S	==TIME CHANGE== Hearing: 03/09/2022, Room 100, SH, 10:30 am; SC 10A
4/20/2022	S	Committee Report: Inexpedient to Legislate; Vote 5-0; CC; 04/28/2022; SC 17
4/28/2022	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; 04/28/2022; SJ 10

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HBS27

Senate Committee: WAYS & MEANS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

SC
Committee Aide

4-29-22
Date

Senate Clerk's Office JM