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P.L. 2003, CHAPTER 230, *approved January 9, 2004*
Assembly, No. 2760

1 **AN ACT** concerning the investment of charitable gift annuity reserves
2 and amending N.J.S.17B:17-13.1.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. N.J.S.17B:17-13.1 is amended to read as follows:

8 17B:17-13.1. a. The commissioner may, in his discretion, issue a
9 special permit to a qualified nonprofit domestic or foreign corporation
10 or association organized without capital stock or not for profit,
11 engaged solely in bona fide charitable, religious, missionary,
12 educational or philanthropic activities and which shall have been in
13 active operation for at least ten years authorizing any such corporation
14 or association to enter into annuity agreements with donors. Before
15 issuing any such special permit the commissioner shall promulgate
16 rules and regulations governing such annuity agreements and permit
17 holders with respect to such annuity agreements. Such rules and
18 regulations shall, in addition to such other provisions as the
19 commissioner may determine to be necessary or desirable to protect
20 the public, provide that each applicant for a special permit shall submit
21 to the commissioner copies of its form of agreements with donors, and
22 a schedule of its maximum annuity rates, which rates shall be so
23 computed, on the basis of the standard valuation law, as to return to
24 the special permit holder, upon the death of the annuitant, a residue at
25 least equal to one-half of the original gift or other consideration for
26 such annuity.

27 b. Each such special permit holder shall have and maintain
28 segregated assets at least equal to the sum of the reserves on its
29 outstanding agreements calculated in accordance with the provisions
30 of Chapter 19 of this Code, and a surplus of ten per centum of such
31 reserves or the amount of \$100,000, whichever is higher, and such
32 assets shall be segregated as separate and distinct funds, independent
33 of all other funds of such special permit holder and shall not be
34 applied for the payment of the debts and obligations of the special
35 permit holder other than with respect to annuity agreements. In
36 determining the reserves of any such special permit holder, a deduction
37 shall be made for all or any portion of an annuity risk which is lawfully
38 reinsured by an authorized insurer. Segregated assets herein required
39 to be maintained shall be invested in [the same manner and subject to
40 the same restrictions as herein provided for investments of domestic
41 insurers unless more restrictive provisions are contained in applicable

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

Matter underlined thus is new matter.

1 statutes regulating any such permit holder and except as the
2 commissioner may otherwise provide by regulation] accordance with
3 the provisions of the "Prudent Investor Act," P.L.1997, c.26
4 (C.3B:20-11.1 et seq).

5 c. Any corporation or association defined in subsection a. hereof
6 which, prior to the effective date of this Code, has entered into annuity
7 agreements shall obtain a special permit as herein provided prior to
8 entering into any new or additional annuity agreements provided,
9 however, that the commissioner shall by regulation allow a period of
10 time, which shall not be more than 5 years following the effective date
11 of this Code for any such corporation or association to comply with
12 the provisions of subsection b. of this section with respect to any
13 annuity agreement entered into prior to the effective date of this Code.
14 The commissioner, in his discretion may extend such time for a
15 reasonable period.

16 d. If the commissioner finds that any special permit holder has
17 failed to comply with the requirements of this section or of any rule or
18 regulation of the commissioner issued hereunder, he may by
19 appropriate order, subject to the provisions of the Administrative
20 Procedure Act (P.L.1968, c.410), Chapter 34 of this Code and any
21 rules adopted thereunder suspend or revoke any such special permit
22 and he may take such other action to restrain or enjoin any such
23 violation as may be otherwise provided by law. In addition the
24 commissioner may make such orders as he deems desirable and
25 necessary to afford appropriate financial security to the annuitants.
26 The commissioner may require that special permit holders submit
27 periodically such reports as he may deem desirable or necessary to
28 ascertain compliance with requirements of this section and the
29 commissioner may, whenever he deems it expedient, make or cause to
30 be made an examination of the assets and liabilities and other affairs of
31 any such special permit holder as the same pertains to annuity
32 agreements entered into pursuant to this section. The reasonable
33 expenses of any such examination shall be fixed and determined by the
34 commissioner, and he shall collect them from the special permit holder
35 examined, who shall pay them on presentation of a detailed account of
36 the expenses.

37 e. No special permit holder shall be deemed an insurer as defined
38 in this Code.

39 (cf: N.J.S.17B:17-13.1)

40

41 2. This act shall take effect immediately.

42

43

STATEMENT

44

45 This bill provides that funds or other assets donated by an
46 individual to a nonprofit or charitable organization, in exchange for a

1 fixed annuity payment for life, shall be invested in accordance with the
2 provisions of New Jersey's "Prudent Investor Act." Under current
3 law, nonprofit and charitable organizations are required to invest 85
4 to 90% of these gift assets in the same manner and subject to the same
5 restrictions as for investments of domestic life and health insurers, in
6 fixed income investment instruments. However, over time, the
7 practical effect of this requirement has been to limit investment return.

8 Charitable gift annuities are primarily a means for donors to make
9 a gift to a charity, while providing guaranteed, fixed income payments
10 to the donor or other named beneficiaries during the donor's lifetime.
11 The nonprofit or charitable organization invests the gift principal, and
12 upon the death of the donor or other designated income beneficiary,
13 the remainder of the gift becomes the property of the organization to
14 use in furtherance of its charitable purposes.

15 In accordance with prudent investor guidelines, a fiduciary is
16 required to invest trust assets as a prudent investor would, by
17 considering the purposes, terms, distribution requirements, and other
18 circumstances of the trust, and incorporates the "modern portfolio
19 theory," by specifying that a fiduciary's investment and management
20 decisions respecting individual assets are not to be evaluated in
21 isolation, but in the context of the trust portfolio as a whole and as
22 part of an overall investment strategy having risk and return objectives
23 reasonably suited to the trust.

24 This bill would provide nonprofit and charitable organizations
25 greater flexibility with respect to the investment of their gift annuity
26 reserves.

27

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29

30

31 Revises investment requirements for charitable gift annuity reserves.

ASSEMBLY, No. 2760

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED SEPTEMBER 19, 2002

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman HERBERT CONAWAY, JR.

District 7 (Burlington and Camden)

Co-Sponsored by:

Assemblymen Diegnan, Bateman, Pennacchio, Senators Inverso and Allen

SYNOPSIS

Revises investment requirements for charitable gift annuity reserves.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2003)

A2760 CONNERS, CONAWAY

2

1 AN ACT concerning the investment of charitable gift annuity reserves
2 and amending N.J.S.17B:17-13.1.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.17B:17-13.1 is amended to read as follows:

8 17B:17-13.1. a. The commissioner may, in his discretion, issue a
9 special permit to a qualified nonprofit domestic or foreign corporation
10 or association organized without capital stock or not for profit,
11 engaged solely in bona fide charitable, religious, missionary,
12 educational or philanthropic activities and which shall have been in
13 active operation for at least ten years authorizing any such corporation
14 or association to enter into annuity agreements with donors. Before
15 issuing any such special permit the commissioner shall promulgate
16 rules and regulations governing such annuity agreements and permit
17 holders with respect to such annuity agreements. Such rules and
18 regulations shall, in addition to such other provisions as the
19 commissioner may determine to be necessary or desirable to protect
20 the public, provide that each applicant for a special permit shall submit
21 to the commissioner copies of its form of agreements with donors, and
22 a schedule of its maximum annuity rates, which rates shall be so
23 computed, on the basis of the standard valuation law, as to return to
24 the special permit holder, upon the death of the annuitant, a residue at
25 least equal to one-half of the original gift or other consideration for
26 such annuity.

27 b. Each such special permit holder shall have and maintain
28 segregated assets at least equal to the sum of the reserves on its
29 outstanding agreements calculated in accordance with the provisions
30 of Chapter 19 of this Code, and a surplus of ten per centum of such
31 reserves or the amount of \$100,000, whichever is higher, and such
32 assets shall be segregated as separate and distinct funds, independent
33 of all other funds of such special permit holder and shall not be
34 applied for the payment of the debts and obligations of the special
35 permit holder other than with respect to annuity agreements. In
36 determining the reserves of any such special permit holder, a deduction
37 shall be made for all or any portion of an annuity risk which is lawfully
38 reinsured by an authorized insurer. Segregated assets herein required
39 to be maintained shall be invested in [the same manner and subject to
40 the same restrictions as herein provided for investments of domestic
41 insurers unless more restrictive provisions are contained in applicable
42 statutes regulating any such permit holder and except as the
43 commissioner may otherwise provide by regulation] accordance with

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

Matter underlined thus is new matter.

1 the provisions of the "Prudent Investor Act," P.L.1997, c.26
2 (C.3B:20-11.1 et seq).

3 c. Any corporation or association defined in subsection a. hereof
4 which, prior to the effective date of this Code, has entered into annuity
5 agreements shall obtain a special permit as herein provided prior to
6 entering into any new or additional annuity agreements provided,
7 however, that the commissioner shall by regulation allow a period of
8 time, which shall not be more than 5 years following the effective date
9 of this Code for any such corporation or association to comply with
10 the provisions of subsection b. of this section with respect to any
11 annuity agreement entered into prior to the effective date of this Code.
12 The commissioner, in his discretion may extend such time for a
13 reasonable period.

14 d. If the commissioner finds that any special permit holder has
15 failed to comply with the requirements of this section or of any rule or
16 regulation of the commissioner issued hereunder, he may by
17 appropriate order, subject to the provisions of the Administrative
18 Procedure Act (P.L.1968, c.410), Chapter 34 of this Code and any
19 rules adopted thereunder suspend or revoke any such special permit
20 and he may take such other action to restrain or enjoin any such
21 violation as may be otherwise provided by law. In addition the
22 commissioner may make such orders as he deems desirable and
23 necessary to afford appropriate financial security to the annuitants.
24 The commissioner may require that special permit holders submit
25 periodically such reports as he may deem desirable or necessary to
26 ascertain compliance with requirements of this section and the
27 commissioner may, whenever he deems it expedient, make or cause to
28 be made an examination of the assets and liabilities and other affairs of
29 any such special permit holder as the same pertains to annuity
30 agreements entered into pursuant to this section. The reasonable
31 expenses of any such examination shall be fixed and determined by the
32 commissioner, and he shall collect them from the special permit holder
33 examined, who shall pay them on presentation of a detailed account of
34 the expenses.

35 e. No special permit holder shall be deemed an insurer as defined
36 in this Code.

37 (cf: N.J.S.17B:17-13.1)

38

39 2. This act shall take effect immediately.

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42

STATEMENT

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44 This bill provides that funds or other assets donated by an
45 individual to a nonprofit or charitable organization, in exchange for a
46 fixed annuity payment for life, shall be invested in accordance with the

1 provisions of New Jersey's "Prudent Investor Act." Under current
2 law, nonprofit and charitable organizations are required to invest 85
3 to 90% of these gift assets in the same manner and subject to the same
4 restrictions as for investments of domestic life and health insurers, in
5 fixed income investment instruments. However, over time, the
6 practical effect of this requirement has been to limit investment return.

7 Charitable gift annuities are primarily a means for donors to make
8 a gift to a charity, while providing guaranteed, fixed income payments
9 to the donor or other named beneficiaries during the donor's lifetime.
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11 upon the death of the donor or other designated income beneficiary,
12 the remainder of the gift becomes the property of the organization to
13 use in furtherance of its charitable purposes.

14 In accordance with prudent investor guidelines, a fiduciary is
15 required to invest trust assets as a prudent investor would, by
16 considering the purposes, terms, distribution requirements, and other
17 circumstances of the trust, and incorporates the "modern portfolio
18 theory," by specifying that a fiduciary's investment and management
19 decisions respecting individual assets are not to be evaluated in
20 isolation, but in the context of the trust portfolio as a whole and as
21 part of an overall investment strategy having risk and return objectives
22 reasonably suited to the trust.

23 This bill would provide nonprofit and charitable organizations
24 greater flexibility with respect to the investment of their gift annuity
25 reserves.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2760

STATE OF NEW JERSEY

DATED: NOVEMBER 7, 2002

The Assembly Banking and Insurance Committee reports favorably
Assembly Bill No. 2760.

This bill revises the investment requirements for charitable gift annuity reserves. The bill provides that funds or other assets donated by an individual to a nonprofit or charitable organization shall be invested in accordance with the provisions of New Jersey's "Prudent Investor Act." Currently, the law requires that these reserves be invested in fixed income investments in the same manner as currently provided for the investments of domestic life and health insurers.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2760

STATE OF NEW JERSEY

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably Assembly Bill No. 2760.

This bill revises the investment requirements for charitable gift annuity reserves. The bill provides that funds or other assets donated by an individual to a nonprofit or charitable organization shall be invested in accordance with the provisions of New Jersey's "Prudent Investor Act." Currently, the law requires that these reserves be invested in fixed income investments in the same manner as for the investments of domestic life and health insurers.

SENATE, No. 1928

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED OCTOBER 7, 2002

Sponsored by:

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

SYNOPSIS

Revises investment requirements for charitable gift annuity reserves.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2003)

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22 return objectives reasonably suited to the trust.

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24 greater flexibility with respect to the investment of their gift annuity
25 reserves.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1928

STATE OF NEW JERSEY

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably Senate Bill No.1928.

This bill revises the investment requirements for charitable gift annuity reserves. The bill provides that funds or other assets donated by an individual to a nonprofit or charitable organization shall be invested in accordance with the provisions of New Jersey's "Prudent Investor Act." Currently, the law requires that these reserves be invested in fixed income investments in the same manner as for the investments of domestic life and health insurers.