

CHAPTER 26.1-34.1 CHARITABLE GIFT ANNUITIES

26.1-34.1-01. Application for certificate of exemption to issue gift annuities.

A domestic or foreign corporation organized and operated exclusively as, or for the purpose of aiding, an educational, religious, charitable, scientific, or philanthropic institution and which is organized as a nonprofit organization without profit to any person, may apply to the commissioner for a certificate of exemption to receive gifts of money or other property conditioned upon, or in return for, its agreement to pay an annuity to a donor or nominee or both. The corporation shall include with its application any documents or information the commissioner reasonably requires, including:

1. Its name, location, and organization;
2. Evidence that it possesses a current tax-exempt status under the laws of the United States;
3. A designation form appointing the commissioner as its attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an annuitant or beneficiary arising out of any annuity contract;
4. A statement of the financial condition, management, and affairs of the organization, including an accurate and complete financial statement consisting of a balance sheet and income and expense statement, showing the current financial condition of the corporation and sworn to by the officer of the corporation having the responsibility for preparing such statement; and
5. A filing fee of one hundred dollars coincident with its application.

26.1-34.1-02. Issuance of certificate of exemption to issue gift annuities.

The commissioner shall issue a certificate of exemption if:

1. All requirements of this chapter have been met; and
2. The commissioner is satisfied that the corporation is in a position to competently execute its responsibilities relative to such annuity contracts.

26.1-34.1-03. Segregated account.

1. Every corporation possessing a certificate of exemption shall maintain a segregated account for all of its gift annuity liabilities.
2. The assets of the segregated account are not liable for any debts of the corporation other than those incurred pursuant to this chapter.
3. The segregated account must be adequate to meet the future payments under all outstanding annuity agreements.

26.1-34.1-04. Contents of annuity contract or policy form.

Each charitable annuity contract or policy form used or issued by the corporation must include at least the following information:

1. The value of the property to be 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 age of the person during whose life payment is to be made; and
5. The reasonable value as of the date of the agreement of the benefits thereby created.

26.1-34.1-05. Continued compliance.

The commissioner may require that a corporation possessing a certificate of exemption submit periodically any report the commissioner determines to be desirable or necessary to ascertain compliance with requirements of this chapter. The commissioner, whenever the commissioner determines it to be expedient, may make or cause to be made an examination of the assets and liabilities and other affairs of the corporation as the same pertains to annuity agreements entered into pursuant to this chapter. The reasonable expenses incurred for any such examination must be fixed and paid in accordance with section 26.1-03-19.6.

26.1-34.1-06. Grounds for denial, revocation, or suspension of certificate of exemption.

The commissioner may refuse to grant, or may revoke or suspend, a certificate of exemption if the commissioner finds that the corporation does not meet or continue to meet the requirements of this chapter or that the corporation has violated this chapter or chapter 26.1-04.

26.1-34.1-07. Other applicable code provisions.

Except as prescribed in this chapter, the corporation is otherwise exempt from the provisions of this code and other insurance laws.