

17B:17-13.1 Charitable annuities.

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

b. Each such special permit holder shall have and maintain segregated assets at least equal to the sum of the reserves on its outstanding agreements calculated in accordance with the provisions of Chapter 19 of this Code, and a surplus of ten per centum of such reserves or the amount of \$100,000, whichever is higher, and such assets shall be segregated as separate and distinct funds, independent of all other funds of such special permit holder and shall not be applied for the payment of the debts and obligations of the special permit holder other than with respect to annuity agreements. In determining the reserves of any such special permit holder, a deduction shall be made for all or any portion of an annuity risk which is lawfully reinsured by an authorized insurer. Segregated assets herein required to be maintained shall be invested in accordance with the provisions of the "Prudent Investor Act," P.L.1997, c.26 (C.3B:20-11.1 et seq.).

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

d. If the commissioner finds that any special permit holder has failed to comply with the requirements of this section or of any rule or regulation of the

commissioner issued hereunder, he may by appropriate order, subject to the provisions of the Administrative Procedure Act (P.L.1968, c.410), Chapter 34 of this Code and any rules adopted thereunder suspend or revoke any such special permit and he may take such other action to restrain or enjoin any such violation as may be otherwise provided by law. In addition the commissioner may make such orders as he deems desirable and necessary to afford appropriate financial security to the annuitants. The commissioner may require that special permit holders submit periodically such reports as he may deem desirable or necessary to ascertain compliance with requirements of this section and the commissioner may, whenever he deems it expedient, make or cause to be made an examination of the assets and liabilities and other affairs of any such special permit holder as the same pertains to annuity agreements entered into pursuant to this section. The reasonable expenses of any such examination shall be fixed and determined by the commissioner, and he shall collect them from the special permit holder examined, who shall pay them on presentation of a detailed account of the expenses.

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

L.1971, c.144, s.17B:17-13.1; amended 2003, c.230.