



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

OFFICE OF SOLVENCY REGULATION

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD J. BADOLATO
Commissioner

PETER L. HARTT
Director

RE: Application for a Special Permit to Issue Charitable Gift Annuities in New Jersey

Dear Applicant:

This will acknowledge your request for an application for a Special Permit to issue Charitable Gift Annuities to New Jersey residents. Enclosed please find the application for the Special Permit. Links to the relevant statutes and regulations are

[N.J.S.A. 17B:17-13](#) [Charitable Annuity Statute](#)
[N.J.S.A. 3B:20-11](#) [Prudent Investor Act](#)
[N.J.A.C. 11:4-8](#) [Charitable Annuity Regulation](#)
[N.J.A.C. 11:4-26](#) [Annuity Mortality Tables Regulation](#)

When you submit the necessary documents and/or information required by the Checklist, please number each item to correspond with the number on the checklist.

If your organization qualifies, please complete the enclosed application and return it to my attention with all of the documents and/or information required of the applicant organization.

BE ADVISED THAT NO GIFT ANNUITY AGREEMENTS MAY BE ENTERED INTO BETWEEN THE APPLICANT AND NEW JERSEY RESIDENT DONORS UNTIL THE REFERENCED SPECIAL PERMIT IS ISSUED. Please advise if any such New Jersey annuity agreements have been issued prior to your request for this application.

The Department may request additional information in the future. Thank you for your attention in this matter. If you need any further information, please do not hesitate to contact me.

Sincerely,

June A. Duggan
e-mail: june.duggan@dobi.nj.gov

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**APPLICATION FOR SPECIAL ANNUITY PERMIT BY CHARITABLE,
RELIGIOUS, MISSIONARY, EDUCATIONAL OR PHILANTHROPIC
CORPORATIONS OR ASSOCIATIONS (N.J.S.A. 17B:17-13.1)**

To the Commissioner of Banking and Insurance of the State of New Jersey:

The undersigned, the _____ of _____
_____ State of _____ being desirous of receiving gifts of
money in the State of New Jersey conditioned upon or in return for its agreement to pay an annuity to the donor or his nominee, hereby makes application for a permit as specified at N.J.S.A. 17B:17-13.1 and in order that the Department of Banking and Insurance may be fully advised as to the qualifications of said corporation or association to exercise such privileges in the State of New Jersey, the following facts are submitted:

1. The _____ is an association or corporation which was duly organized under the laws of the State of _____ on the _____ day of _____ 19____, for the purpose of _____

(Indicate whether an association or corporation and quote powers from certificate of incorporation or articles of association.)

2. Is the association or corporation conducted without profit and engaged solely in bona fide charitable, religious, missionary, educational, or philanthropic activities? _____
3. Has the association or corporation (including its predecessor association or corporation) been in active operation for at least ten years prior to the date of this application?

4. Will the annuity rates to be charged on new contracts issued on and after January 1, 2001 be sufficient at all ages, on the basis of the Annuity 2000 Table and the current statutory calendar year interest rate calculated according to the 1970 amendments to the NAIC Standard Valuation and Nonforfeiture Laws (or on the basis of any higher permitted standard adopted by the association or corporation for the calculation of its reserves) to return a residuum to the corporation upon death of the annuitant or survivor annuitant of at least 50% of the original gift or consideration? _____
5. If the association or corporation is not using the rates established by the American Council on Gift Annuities a complete schedule of the present maximum annuity rates of the corporation or association should be attached to this application.
6. "John Doe" copies of each current form of agreement to be issued to annuitants in the State of New Jersey should be attached to this application.

7. Does the financial report, which should be submitted herewith, show the admitted assets of the association or corporation which, on the date of such report, had been segregated as separate and distinct funds for the purpose of annuity benefits and which may not, without exception, be applied towards the payment of other debts or obligations of the association or corporation? _____
8. Attach hereto a certified resolution requiring segregation of assets for annuity benefits in accordance with N.J.S.A. 17B:17-13.1. (NOTE: See attached specimen of proposed form of resolution satisfactory to this Department.)
9. Are such segregated assets held for the protection of ALL such annuitants of the association or corporation? _____
10. Provide a copy of the plan of operation of the segregated account and the investment plan of the segregated account as required at N.J.A.C. 11:4-8.7.
11. Organization Name as it is to appear on Special Permit:

Mailing Address: _____

(Street)

(City)

(County - for NJ Organizations Only)

(State, Zip Code)

Federal Identification Number: _____

If you wish to file the Annual Statement of the Segregated Gift Annuity on a fiscal year basis, provide your fiscal year end _____

Contact for organization: _____ Title: _____

Phone Number: _____

Fax Number: _____

e-mail: _____

12. The following represents a summary of the financial report submitted herewith relating to the segregated funds mentioned in Interrogatory 7 above:

Total Admitted Assets	_____	Reserve on Annuities per Actuary's Report	_____
		Amounts past due and unpaid to Annuitants	_____
		Other Liabilities	_____
		Unassigned Funds (Surplus)	_____
Total	_____	Total	_____

Dated _____

(Name of association or corporation)

S E A L

By _____ President

By _____ Treasurer

State of _____

County of _____

_____ and _____ being duly severally sworn, each for himself, deposes and says that the said _____ is the President and the said _____ is the Treasurer of the _____ that he signed the foregoing application by order of the board of trustees/directors; that he has read the application and knows the contents thereof and the statements contained therein and that such application and the data submitted to the Actuary as the basis of his certificate of valuation are true and complete to the best of his knowledge, information and belief.

_____, President

_____, Treasurer

Subscribed and sworn to before me this
_____ day of _____ 20 ____

**Certificate of the Valuation of the
Annuity Liabilities of the**

as of _____

State of _____

SS.:

County of _____

_____ Actuary, for the _____
_____ deposes and says:

The amount of the annuity reserve of \$_____ shown in the financial report herewith submitted has been correctly computed based upon the schedules and other valuation data submitted to him; that the bases used in the valuation are shown below and that such bases satisfy the minimum requirements of the New Jersey Insurance Laws.

Annuity Table Of Mortality	Assumed Rate Of Annuity Interest	Years Of Issue Of Annuity Contracts	Amount Of Reserve	Deduct Reinsurance Annuity Reserve	Net Annuity Reserve
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
				Total	_____

Actuary (Signature)

Actuary (Printed Name)

Subscribed and sworn to before me
this _____ day of _____ 20 ____

Notary Public

SEAL

**Checklist of Documents And/Or Information Required with the
Application for a Special Permit to Issue Charitable Gift Annuities**

1. Application fee of \$100.00. Please make check payable to "State of New Jersey - General Treasury".
2. The completed application form of the Application for a Special Permit.
3. Resolution requiring the segregation of assets for annuity benefits.
4. The name of the actuary and/or actuarial firm contracted with by the Applicant for the purpose of reserve valuations. Or for organizations using appropriate software (including but not limited to PG Calc or Cresendo) a certification from an officer of the organization stating the software being used and the person responsible for calculating the reserves and their qualifications.
5. The completed form entitled "Certificate of the Valuation of the Annuity Liabilities". This form must be signed by a qualified actuary and notarized for organizations that have issued annuities and are using the services of an actuary.

If applicable, the Applicant shall submit as part of the Annual Statement required below, a statement by a qualified actuary setting forth his or her opinion as to the adequacy of the reserves as reported on Annual Statement page 4, line 4 as of the statement date.

6. A copy of the corporate organizational chart, which should include all parent, subsidiaries and affiliates of the organization applying for the Special Permit.
7. Proof that the Applicant is registered and current with the **New Jersey** Department of the Treasury as a domestic or a foreign entity authorized to do business in New Jersey. Please contact the Department's Business Services hotline for this information, 609-292-9292 or on the Web at: <http://www.nj.gov/njbgs>
8. Evidence that the organization has been in active operation for at least ten (10) years, as required by N.J.S.A. 17B:17-13.1a.
9. Documentation from the Internal Revenue Service that the organization has an exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code.
10. Provide a copy of the most recent Internal Revenue Service Form 990 and/or any other annual submissions that the IRS may have required by virtue of the corporations tax exempt status.
11. Provide a copy of the applicant organization's Articles of Incorporation.
12. Provide a copy of the applicant organization's By-Laws.
13. Provide a copy of the Forms of Agreements with donors (Policy Forms).
Example: Single Life - Two Lives - Joint and Survivor

Submit a copy of the Forms of Agreements that the organization proposes to offer to New Jersey residents. The forms must be in compliance with N.J.A.C. 11:4-8.4. The form number and some indication of publication date (i.e. month/year) should appear on each page of the form. Revised forms should be noted as such along with the publication date. Multi page forms should also have the page number clearly shown on each page.

Applicants proposing to offer or currently offering Flexible Contracts must follow the requirements listed on the attached March 12, 2002 letter, **Flexible Contracts for Special Permit Holders**

14. Is the Applicant proposing to use the annuity rates adopted by the American Council on Gift Annuities?

If not, please submit the schedule of maximum annuity rates that your organization intends to use for each form of annuity that you propose to issue.

The annuities may take the following form:

- ** single life
- ** two lives - joint and survivor
- ** deferred gift annuity

The Applicant must demonstrate that the rates meet the requirements of N.J.A.C. 11:4-8.5(a). Consult your actuary for this demonstration.

15. Is the Applicant currently a member of or in the process of becoming a member of the American Council on Gift Annuities?

If not, is the Applicant a member of any planned giving organization? If so, please advise the Department as to the name of the organization(s); if not, please advise the Department as to how the Applicant intends to keep informed of changes in the planned giving area.

16. Provide a copy of the plan of operation for the segregated account and the investment plan for the segregated account as required by N.J.A.C. 11:4-8.7.
17. Provide evidence that the Applicant has a surplus amount equal to the greater of ten (10) per cent of the reserves or \$100,000.
18. Applicants who have issued annuities, please complete an [Annual Statement of the Segregated Gift Annuity Fund](#) as of December 31 of the prior year or the prior fiscal year for entities filing on a fiscal year basis. Included with the Annual Statement shall be a copy of the workpapers used to calculate the required reserves. These workpapers are to be in such form and in such detail that the calculation of the net present value of the annuities can be verified.
19. Provide a copy of the most recent Independent Auditors Financial Statements of the Applicant or parent company if the Applicant does not have audited financial statements.
20. Provide evidence that the Applicant is registered with the New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Charities Registration Section. 973-504-6215 or on the Web at: www.nj.gov/oag/ca/ocp/charities.htm

If the Applicant believes it is exempt from registration with the Department of Law and Public Safety pursuant to N.J.A.C. 13:48-3.3(a)1-7 (<http://www.njconsumeraffairs.gov/ocp/charities.htm>) please provide a certification from an officer of the applicant organization stating the applicant is exempt and citing the relevant section of the regulation which entitles the applicant to an exemption.



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HOLLY C. BAKKE
Commissioner

March 12, 2002

Flexible Contracts for Special Permit Holders

The Department of Banking and Insurance has become aware that some special permit holders and/or applicants are considering offering Flexible Contracts. These contracts allow the annuitant flexibility in selecting the start date for payment. There are several factors that should be considered before pursuing the offering of Flexible contracts, as outlined below:

- Pursuant to N.J.A.C. 11:4-8.4, "If a holder of a special permit proposes to institute a new form of agreement with annuitants, the form shall first be submitted to the Commissioner for his approval before it is put into use." Therefore, any new forms of agreements that would be used to offer Flexible Contracts must first be submitted for our review and approval.
- Pursuant to N.J.A.C. 11:4-8.5(c), the annuity rates to be used with new forms of agreement must be submitted along with a demonstration that the rates comply with the requirements of N.J.A.C. 11:4-8.5(a).

The following conditions will be applied if your organization is offering or plans to offer these types of contracts.

1. N.J.A.C. 11:4-8.5(d) provides that the Commissioner may waive the requirement for the actuarial opinion. Due to risk factors related to flexible contracts, the Commissioner will not waive the requirement for an actuarial opinion as to the adequacy of reserves on outstanding contracts for those organizations issuing flexible contracts.
2. In providing an opinion, the actuary shall
 - address cash flow needs and a matching of assets and liabilities in the segregated account;
 - describe the reserve standards for flexible contracts;
 - advise as to the need for any adjustments in mortality assumptions.

PROPOSED FORM OF RESOLUTION TO BE PASSED BY A QUALIFIED NONPROFIT CORPORATION OR ASSOCIATION RELATING TO AN APPLICATION FOR A SPECIAL PERMIT FOR ANNUITY AGREEMENTS WITH DONORS AND THE SEGREGATION OF ASSETS AS FUNDS RESPECTING ANNUITY AGREEMENTS

WHEREAS, Chapter 144 of the Laws of 1971 established Subtitle 3. Life and Health Insurance Code to be known as Title 17B, Insurance, of the New Jersey Statutes and Section 17B:17-13.1, effective January 1, 1972, provides, among other things in respect to the exemption from certain provisions of the Insurance Law of the State of New Jersey, that 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 prior to the application for a permit hereinafter mentioned, and which enters into annuity agreements with donors, shall segregate from its assets as separate and distinct funds, independent from all other funds of such corporation or association, an amount at least equal to the sum of the reserves on outstanding annuity agreements plus a minimum surplus, as required therein on all gift annuity agreements and shall not apply said segregated assets for the payment of the debts and obligations of the corporation or association or for any purpose other than the annuity benefits therein specified, and,

WHEREAS, this Section on Charitable Annuities provides for the issuance of a special permit by the Commissioner of Banking and Insurance of the State of New Jersey for the purposes therein mentioned,

Now, therefore, be it **RESOLVED** that in order to meet the aforesaid requirements of the law and for the purpose of obtaining a special permit from the Commissioner of Banking and Insurance of the State of New Jersey to issue gift annuity agreements in New Jersey:

- There shall be set aside and maintained assets of the corporation or association as separate and distinct funds, in the form of a segregated account, independent of all other funds of the corporation or association.
- The segregated account shall be funded in an amount that is at least equal to the sum of reserves and of surplus as required by this Section and which shall be invested as provided in this Section.
- Such segregated funds shall not be liable for the debts or obligations of the corporation or association other than those incurred pursuant to the issuance of charitable gift annuities.
- Such segregated account shall be known as _____¹

This resolution shall not be modified, revoked or rescinded without prior approval by the Commissioner of the New Jersey Department of Banking and Insurance.

Any assets heretofore segregated and held as separate funds on account of annuity benefits shall be merged with the aforesaid segregated assets to the extent required in order to comply with the provisions of Section 17B:17-13.1 of the New Jersey Statutes.²

¹ Use a name that clearly designates it as the segregated assets account contemplated by this Section.

² Note: The above proposed form of resolution would be satisfactory to the New Jersey Department of Banking and Insurance.