SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2326

SPONSOR: Banking and Insurance Committee and Senator Laurent

SUBJECT: Annuities

DATE: April 5, 1999 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Woodham	Deffenbaugh	BI	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

The Committee Substitute for Senate Bill 2326 prescribes certain conditions under which an organized domestic or foreign nonstock corporation or an unincorporated charitable trust may enter into charitable annuity agreements. Generally these organizations must have been in active operation for 5 years before they may enter into charitable annuity agreements. Under the bill, an additional provision would allow an organization, which has been a corporation or trust for at least 2 years, and which has been wholly controlled for 10 years by an organized foreign or domestic nonstock corporation or unincorporated charitable trust which has been an active not-for-profit organization for 5 years, to engage in the selling of annuity agreements, if the organization has been engaging in this activity in at least three other states without complaint.

This bill amends section 627.481 of the Florida Statutes.

II. Present Situation:

Current law provides that any unincorporated charitable trust which has been in active operation for at least 5 years and has qualified as a not-for-profit organization under 26 U.S.C. s. 501(c)(3) of the Internal Revenue Code may enter into annuity agreements with donors. The corporation or trust may receive gifts conditioned upon, or in return for, its agreement to pay an annuity to the donor or other designated beneficiary to make and carry out such annuity agreement.

The law requires that the organization be qualified as a charitable organization under s. 501(c)(3) of the Internal Revenue Code for at least 5 years, before it can engage in selling charitable annuities. This 5-year period is in place to prevent possible fraud or mismanagement by new charitable corporations which attempt to sell charitable annuities.

Section 627.481, F.S., also requires that every domestic corporation or domestic or foreign trust engaging in the sale of annuities must have and maintain admitted assets at least equal to the sum of the reserves on its outstanding annuity agreements, and a surplus of 25 percent of such reserves. Any corporation or trust that engages in the business of issuing these annuity agreements must notify the Department of Insurance in writing when it enters into the first of these charitable annuity agreements. The notice must be signed by two or more officers or directors of the organization, identify the organization, and certify that the organization meets the requirements of s. 627.481, F.S.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.481, F.S., relating to donor annuities sold by qualified charitable organizations. The bill provides an additional circumstance under which a duly organized domestic or foreign nonstock corporation or an unincorporated charitable trust may engage in selling charitable annuities. The bill provides that a nonstock corporation or unincorporated charitable trust which has been wholly controlled for 10 years by a corporation or trust which has been active for at least 5 years, and which is qualified as a s. 501(c)(3) not-for-profit organization under the Internal Revenue Code, may engage in the sale of charitable annuity agreements, if the charitable trust organization has been a corporation or trust for at least 2 years and has engaged in the selling of annuity agreements authorized under this section in at least three other states without complaint.

Section 2. The bill becomes effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill benefits those charitable organizations that qualify under the bill to sell charitable annuities. The requirements appear to provide adequate protections to consumers against mismanagement or fraud, commensurate with current protections.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.