

105TH CONGRESS  
1ST SESSION

# H. R. 1902

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 1997

Received

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## AN ACT

To immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the anti-trust laws and State laws similar to the antitrust laws.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Charitable Donation  
3 Antitrust Immunity Act of 1997”.

4 **SEC. 2. IMMUNITY FROM ANTITRUST LAWS.**

5 The Charitable Gift Annuity Antitrust Relief Act of  
6 1995 (15 U.S.C. 37 et seq.) is amended—

7 (1) by amending section 2 to read as follows:

8 **“SEC. 2. IMMUNITY FROM ANTITRUST LAWS.**

9 “(a) **INAPPLICABILITY OF ANTITRUST LAWS.**—Ex-  
10 cept as provided in subsection (d), the antitrust laws, and  
11 any State law similar to any of the antitrust laws, shall  
12 not apply to charitable gift annuities or charitable remain-  
13 der trusts.

14 “(b) **IMMUNITY.**—Except as provided in subsection  
15 (d), any person subjected to any legal proceeding for dam-  
16 ages, injunction, penalties, or other relief of any kind  
17 under the antitrust laws, or any State law similar to any  
18 of the antitrust laws, on account of setting or agreeing  
19 to rates of return or other terms for, negotiating, issuing,  
20 participating in, implementing, or otherwise being involved  
21 in the planning, issuance, or payment of charitable gift  
22 annuities or charitable remainder trusts shall have immu-  
23 nity from suit under the antitrust laws, including the right  
24 not to bear the cost, burden, and risk of discovery and  
25 trial, for the conduct set forth in this subsection.

1           “(c) TREATMENT OF CERTAIN ANNUITIES AND  
2 TRUSTS.—Any annuity treated as a charitable gift annu-  
3 ity, or any trust treated as a charitable remainder trust,  
4 either—

5                   “(1) in any filing by the donor with the Inter-  
6           nal Revenue Service; or

7                   “(2) in any schedule, form, or written document  
8           provided by or on behalf of the donee to the donor;  
9 shall be conclusively presumed for the purposes of this Act  
10 to be respectively a charitable gift annuity or a charitable  
11 remainder trust, unless there has been a final determina-  
12 tion by the Internal Revenue Service that, for fraud or  
13 otherwise, the donor’s annuity or trust did not qualify re-  
14 spectively as a charitable gift annuity or charitable re-  
15 mainder trust when created.

16           “(d) LIMITATION.—Subsections (a) and (b) shall not  
17 apply with respect to the enforcement of a State law simi-  
18 lar to any of the antitrust laws, with respect to charitable  
19 gift annuities, or charitable remainder trusts, created after  
20 the State enacts a statute, not later than December 8,  
21 1998, that expressly provides that subsections (a) and (b)  
22 shall not apply with respect to such charitable gift annu-  
23 ities and such charitable remainder trusts.”; and

24                   (2) in section 3—

25                           (A) by striking paragraph (1);

1 (B) by redesignating paragraph (2) as  
2 paragraph (1);

3 (C) by inserting after paragraph (1), as so  
4 redesignated, the following:

5 “(2) CHARITABLE REMAINDER TRUST.—The  
6 term ‘charitable remainder trust’ has the meaning  
7 given it in section 664(d) of the Internal Revenue  
8 Code of 1986 (26 U.S.C. 664(d)).”;

9 (D) by redesignating paragraphs (4) and  
10 (5) as paragraphs (5) and (6), respectively; and

11 (E) by inserting after paragraph (3) the  
12 following:

13 “(4) FINAL DETERMINATION.—The term ‘final  
14 determination’ includes an Internal Revenue Service  
15 determination, after exhaustion of donor’s and  
16 donee’s administrative remedies, disallowing the do-  
17 nor’s charitable deduction for the year in which the  
18 initial contribution was made because of the donee’s  
19 failure to comply at such time with the requirements  
20 of section 501(m)(5) or 664(d), respectively, of the  
21 Internal Revenue Code of 1986 (26 U.S.C.  
22 501(m)(5), 664(d)).”.

23 **SEC. 3. APPLICATION OF ACT.**

24 This Act, and the amendments made by this Act,  
25 shall apply with respect to all conduct occurring before,

1 on, or after the date of the enactment of this Act and  
2 shall apply in all administrative and judicial actions pend-  
3 ing on or commenced after the date of the enactment of  
4 this Act.

5 **SEC. 4. STUDY AND REPORT.**

6 (a) **STUDY AND REPORT.**—The Attorney General  
7 shall carry out a study to determine the effect of this Act  
8 on markets for noncharitable annuities, charitable gift an-  
9 nuities, and charitable remainder trusts. The Attorney  
10 General shall prepare a report summarizing the results of  
11 the study.

12 (b) **DETAILS OF STUDY AND REPORT.**—The report  
13 referred to in subsection (a) shall include any information  
14 on possible inappropriate activity resulting from this Act  
15 and any recommendations for legislative changes, includ-  
16 ing recommendations for additional enforcement re-  
17 sources.

18 (c) **SUBMISSION OF REPORT.**—The Attorney General  
19 shall submit the report referred to in subsection (a) to  
20 the Chairman and the ranking member of the Committee  
21 on the Judiciary of the House of Representatives, and to  
22 the Chairman and the ranking member of the Committee

