



# State Regulations: What You Need to Know

**Julia Boerth, Director Gift Administration**  
**Julie Goldenberg Hay, Consultant**

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## Agenda

- Introductions
- What is gift annuity regulation?
- How do regulations vary among states?
- Does my organization need to register?
- Getting registered and staying compliant
- Questions?

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# Introductions



- Who are we?
- Who are you?
- Why are you here?



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# What is Gift Annuity Regulation?



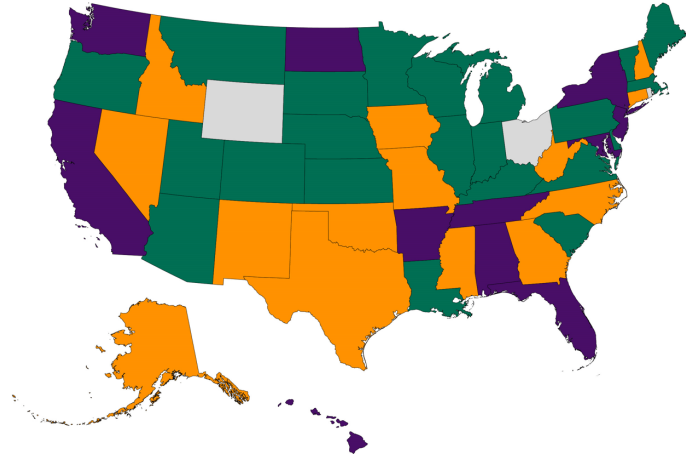
- Insurance code
- Exemption
- Unauthorized insurance company



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# How do regulations vary among states?

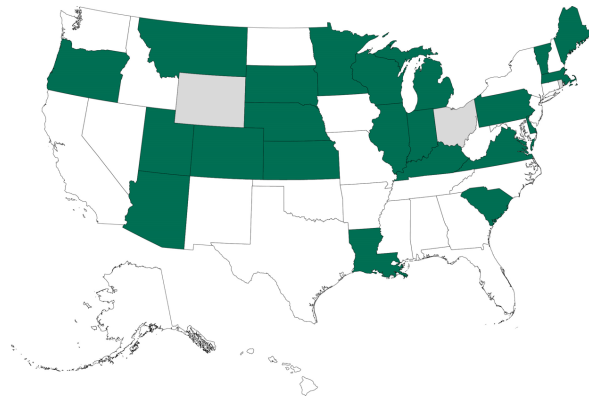
- Reserve, Annual Reporting, or Detailed Application
- Exempt — Notification
- Exempt — Non Notification
- Silent



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# Good News

- Exempt — Non Notification
- Silent

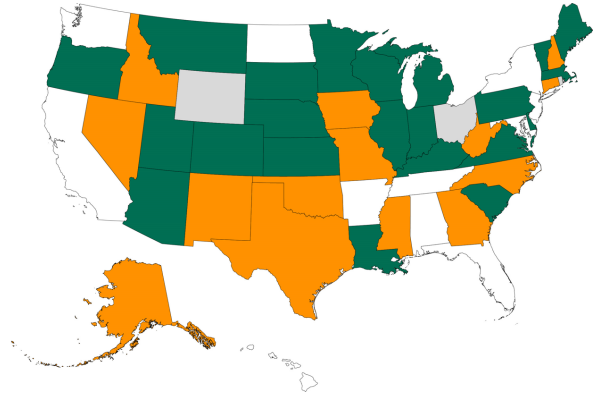


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# More Good News



- Exempt — Notification
- Exempt — Non Notification
- Silent

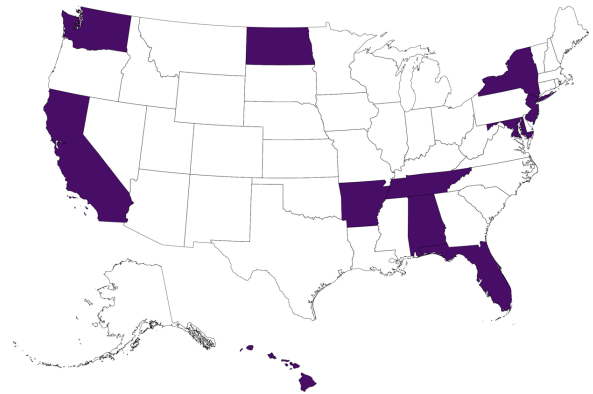


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# Bad News



- Reserve, Annual Reporting, or Detailed Application



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## Does my organization need to register?

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- **Subject to regulation**
  - An organization should register/comply in the state(s) in which it is *doing business*
  - What is “doing business”?
- **Separate from charitable solicitation registration**
- **What if my organization doesn't want to register?**

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## Deciding in What States to Issue Gift Annuities

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- *Can* the organization meet all requirements?
- Does the organization *want* to meet initial and ongoing requirements?
- Timing
  - notification = concurrent with first annuity in the state
  - application = submit and obtain approval before issuing
  - cannot issue while application is pending

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## Can the Organization Meet:

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- Years in operation
  - 3 - 20 years
- In-state activity in Hawaii and Maryland
- Unrestricted assets
  - \$100,000 to \$2 million
  - Hawaii: held in-state
  - Unspecified: financial condition

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## Does the Organization *Want* to Meet:

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- Segregated reserve fund
  - Minimum fund balance
  - State-specific fund(s)
- Investment restrictions
  - Specific requirements (CA and FL)
  - Prudent investor
- Rates
- Annual reporting

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## Other Requirements of Note

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- Sensitive information from staff
- Registration with other state agencies
- Appointment of agents
- Board resolutions
- Annuity agreement forms

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## Getting registered and staying compliant

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What is involved?  
Who is involved?

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## Getting registered: What & Who is Involved

### What is involved?

- Making sure everyone is on board with registration →
- Financial Matters:
  - Segregation of gift annuity funds →
  - Minimum reserve requirements →
  - Investment restrictions (CA, FL) →
- Completing applications or other registration paperwork →
- Other registrations

### Who is involved?

- Board of Directors/Trustees
- Leadership
- Finance office & Financial institutions and/or Asset managers
- Development Office/PGO
- Finance office

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## Staying Compliant: What & Who is involved?

### What is involved?

- Annual reports
  - renotification, audited financials →
  - detailed reporting →
  - FYE vs. CYE; tickler system →
- Monitoring reserve fund
  - fund balance →
  - investment allocation →
  - not just at FYE or CYE

### Who is involved?

- Development/PGO
- business/finance office
- financial institution
- outsourced
- Business/finance office
- Investment committee
- Financial institution/asset manager

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# Staying Compliant: What & Who is involved?

## What is involved?

- Rates
- Agreement forms
- Marketing
- Agents



## Who is involved?

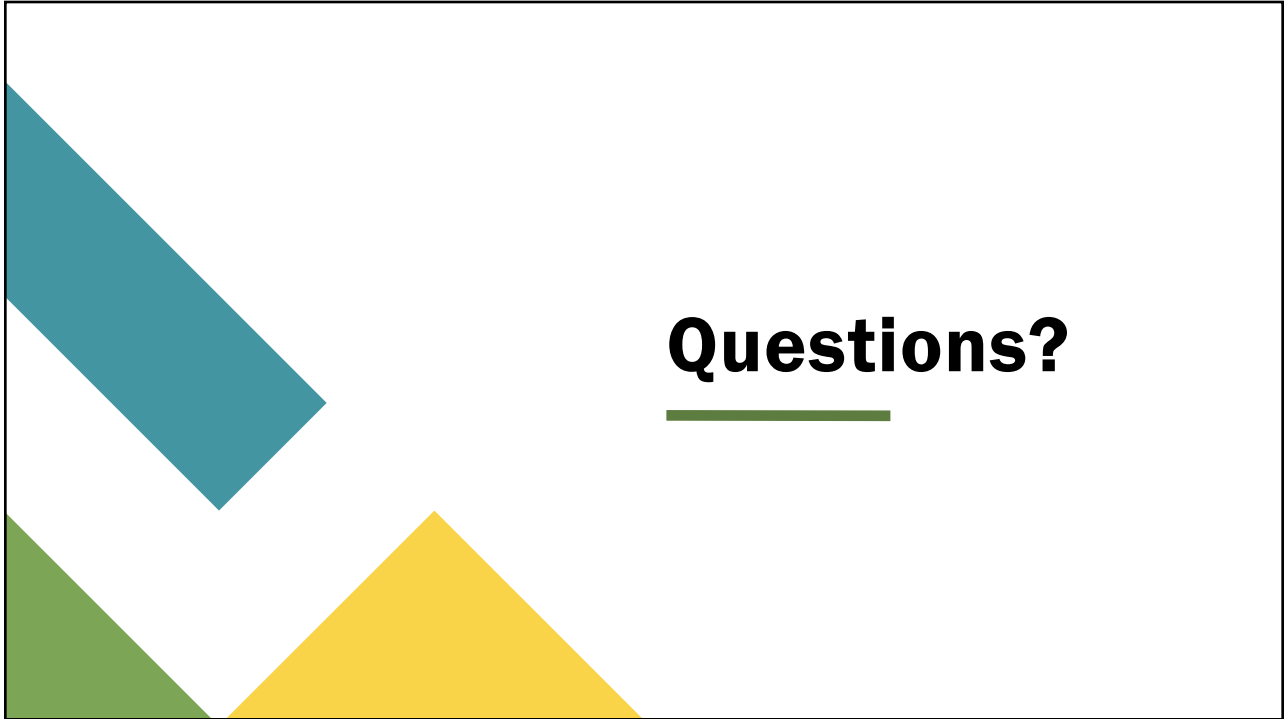
- Development/PGO

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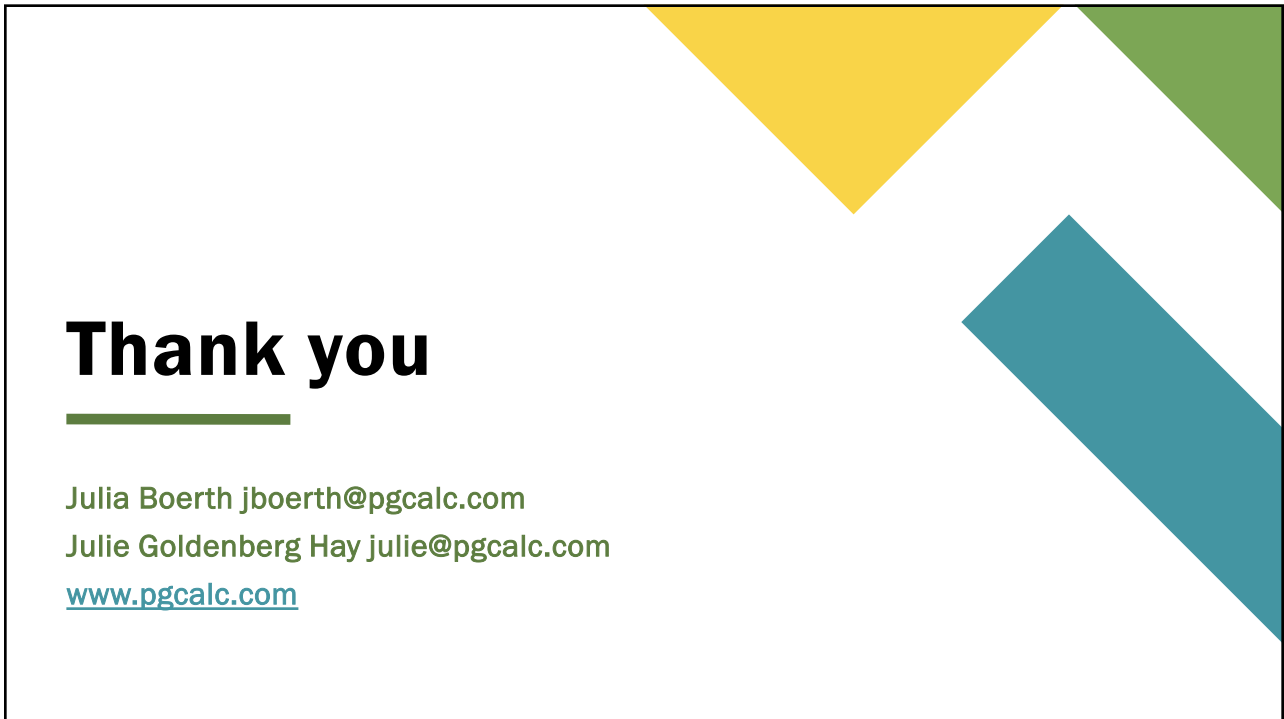
State	Submit Report?	Use Specific Form?	Deadline for Form	Submit Financial Statement?	Deadline for Financial Statement	Other Submission?
AL	No	N/A	N/A	Yes	FY + 60 days	Renew "restricted agent" registrations
AR	Yes	Yes (as a guide)	FY + 180 days	Yes	FY + 180 days	No
CA	Yes	Yes	CY or FY + 120 days	No	N/A	No
FL	Yes	Yes	FY + 60 days	No	N/A	No
GA	No	N/A	N/A	Yes	When available	Yes
HI	Yes	Yes	March 15	No	N/A	No
MD	No	No	N/A	Yes (Specialized)	FY + 180 days	No
NH	Yes	Yes	CY or FY + 4 months, 15 days	No	N/A	Report on general activities
NJ	Yes	Yes	CY or FY + 120 days	Yes	CY or FY + 120 days	No
NY	Yes	Yes	March 1	No	N/A	No
ND	No	N/A	N/A	Yes	When available + 15 days	No
OK	No	N/A	N/A	Yes	When available + 90 days	Yes
TN	Yes	Yes	March 1	Yes	March 1	No
WA	Yes	Yes	FY + 60 days	Yes (Specialized)	FY + 9 months	IRS Form 990

## Staying Compliant

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## 1. State law requires segregated reserve, annual reporting, and/or detailed application (11):

State	Years in operation	Board resolution	Disclosure in agreement	Reserve required	Investment limitations	Other registrations
AL <sup>1</sup>	—	—	yes	yes	—	—
AR	5	yes	—	yes <sup>2</sup>	yes <sup>3</sup>	—
CA	10	yes	yes	yes <sup>4</sup>	yes <sup>4</sup>	—
FL	5	—	yes	yes <sup>5</sup>	yes	—
HI <sup>6</sup>	10 in HI	—	yes	yes	— <sup>7</sup>	—
MD	10 in MD	—	yes <sup>8</sup>	yes	— <sup>7</sup>	—
NJ	10	yes	—	yes	— <sup>7</sup>	yes <sup>9</sup>
NY	10	yes	—	yes	— <sup>7</sup>	—
ND	—	—	—	yes	—	—
TN	—	—	yes <sup>8</sup>	yes <sup>10</sup>	— <sup>7</sup>	—
WA <sup>11</sup>	3	—	—	yes	— <sup>7</sup>	yes <sup>12</sup>

### NOTES:

<sup>1</sup> Regulated by Securities Dept. rather than Insurance

<sup>2</sup> May elect to segregate AR annuitants

<sup>3</sup> Prudent investor standard allowed

<sup>4</sup> CA annuitants only

<sup>5</sup> May elect to segregate FL annuitants

<sup>6</sup> Law requires \$200,000 of assets in Hawaii

<sup>7</sup> Prudent investor standard

<sup>8</sup> If signed, or in separate signed document

<sup>9</sup> Registration with NJ Div. of Revenue and NJ Dept. of Law and Public Safety

<sup>10</sup> TN-only fund allowed but no longer mandated

<sup>11</sup> Organization must have \$500,000 in unrestricted net assets

<sup>12</sup> Registration with WA Secretary of State

## 2. State law provides for exemption - Notification required (14):

State	Years in operation	Board resolution	Disclosure in agreement	Reserve required	Available assets	Other registrations
AK	3	—	yes	—	\$300k	—
CT	3	—	yes	—	\$300k	—
GA <sup>13</sup>	3	—	yes	—	\$300k	—
ID	3	—	yes	—	\$100k	—
IA	3	—	yes	—	\$300k	—
MS	3	—	yes	—	\$300k	yes <sup>14</sup>
MO	3	—	yes	—	\$100k	—
NV	3	—	yes	—	\$300k	—
NH <sup>15, 16</sup>	3	—	yes	yes	\$300k	yes <sup>17</sup>
NM	3	—	yes	—	\$300k <sup>18</sup>	—
NC	3	—	yes	—	\$100k	—
OK <sup>13</sup>	3	—	yes	—	\$100k	—
TX	3	—	yes	—	\$100k	—
WV	3	—	yes	—	\$300k	—

### NOTES:

<sup>13</sup> Annual reporting: submission of audited financial statement

<sup>14</sup> Registration with MS Secretary of State (as charitable organization)

<sup>15</sup> Annual reporting: re-notification

<sup>16</sup> Annuity rates must not exceed ACGA suggested rates

<sup>17</sup> General registration with NH Dept. of Justice in some instances

<sup>18</sup> Either in unrestricted assets or reserve fund

## 3. State law provides for exemption - No notification required (22):

State	Years in operation	Board resolution	Disclosure in agreement	Reserve required	Available assets	Other registrations
AZ	3	—	— <sup>19</sup>	—	\$300k	—
CO	3	—	yes	—	—	—
DE	—	—	—	—	—	—
IL	20 <sup>20</sup>	—	—	—	\$2 mil. <sup>20</sup>	—
IN	—	—	—	—	—	—
KS	—	—	—	—	—	—
KY	—	—	—	—	—	yes <sup>21</sup>
LA	—	—	—	—	—	—
ME	5	—	—	—	—	yes <sup>22</sup>
MA	—	—	—	—	—	—
MI	—	—	—	—	—	—
MN	—	—	—	—	—	—
MT	3 <sup>20</sup>	—	—	yes <sup>20</sup>	\$100K <sup>20,23</sup>	—
NE	3	—	—	—	—	—
OR	5	—	— <sup>24</sup>	yes	\$300k	—
PA	3	—	yes	—	\$100k <sup>25</sup>	yes <sup>26</sup>
SC	5	—	—	—	—	—
SD	10	—	yes	—	\$500k	yes <sup>27</sup>
UT	—	—	—	—	—	—
VA	3	—	yes	—	\$100k	—
VT	3	—	yes	—	\$300k	—
WI	3	—	yes <sup>28</sup>	—	—	—

### NOTES:

<sup>19</sup> Detailed disclosure statement to donor prior to gift

<sup>20</sup> Waived if annuities reinsured

<sup>21</sup> Certain charities must file copy of Form 990 with KY Attorney General

<sup>22</sup> Registration with ME Secretary of State (qualified as foreign corporation)

<sup>23</sup> \$100k in unrestricted assets or \$300k net worth

<sup>24</sup> Content-specific written disclosure, in agreement or other document

<sup>25</sup> Plus one-half principal value of then outstanding annuities

<sup>26</sup> Certain charities must register with PA Dept. of State (general solicitation law)

<sup>27</sup> Registration with SD Secretary of State (qualified as foreign corporation)

<sup>28</sup> Language modified when law changed 4/18/14

## 4. State law does not specifically address gift annuities (4):

DC, OH <sup>29</sup>, RI, WY

### NOTES:

<sup>29</sup> OH previously provided for an exemption from securities law under now rescinded administrative rule. OH Court of Appeals case decided in 2002 held gift annuities not subject to insurance regulation (OH Supreme Court declined to hear appeal).

**Figure 14.1**

**Summary of State Gift Annuity Annual Filing Requirements**

State	Submit Report?	Use Specific Form?	Deadline for Form	Submit Financial Statement?	Deadline for Financial Statement	Other Submission?
AL	No	N/A	N/A	Yes	FY + 60 days	Renew “restricted agent” registrations
AR	Yes	Yes (as a guide)	FY + 180 days	Yes	FY + 180 days	No
CA	Yes	Yes	CY or FY + 120 days	No	N/A	No
FL	Yes	Yes	FY + 60 days	No	N/A	No
GA	No	N/A	N/A	Yes	When available	Yes
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OK	No	N/A	N/A	Yes	When available + 90 days	Yes
TN	Yes	Yes	March 1	Yes	March 1	No
WA	Yes	Yes	FY + 60 days	Yes (Specialized)	FY + 9 months	IRS Form 990

**Note:** In submitting a report, a charity will frequently need to include separate documentation, such as a statement of required reserves.

**Non-gift annuity registrations:** Annual filings that may be required as a part of registrations to do business or to solicit charitable contributions in a state are not included on this chart.