

**Chapter 284-38 WAC
CHARITABLE GIFT ANNUITIES**

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WAC

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WAC 284-38-010 Definitions. The definitions in this section apply throughout this chapter:

"Certificate holder" means any insurer or educational, religious, charitable, or scientific institution that has been issued a certificate of exemption by the commissioner to conduct a charitable gift annuity business.

"Complete filing" means a package of information containing charitable gift annuity contracts, supporting information, documents and exhibits submitted to the commissioner electronically using the system for electronic rate and form filing (SERFF).

"Contract" means a charitable gift annuity contract as described in chapter 48.38 RCW.

"Date filed" means the date a complete charitable gift annuity contract filing has been received and accepted by the commissioner.

"Filer" means a person, organization, or other entity that files charitable gift annuity contracts with the commissioner.

"Objection letter" means correspondence sent by the commissioner to the filer that:

- (a) Requests clarification, documentation or other information;
- (b) Explains errors or omissions in the filing; or
- (c) Disapproves a charitable gift annuity contract under RCW 48.38.010(9), 48.18.110, 48.38.030, or 48.38.042.

"SERFF" means the system for electronic rate and form filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows filers to create and submit rate, rule, and form filings electronically to the commissioner.

"Unrestricted net assets" also means "net assets without donor restrictions."

[Statutory Authority: RCW 48.02.060, 48.38.075 and 48.38.010. WSR 18-24-054 (Matter R 2018-13), § 284-38-010, filed 11/28/18, effective 12/29/18. Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-010, filed 2/10/14, effective 3/15/14.]

FILING CHARITABLE GIFT ANNUITY CONTRACTS FORMS

WAC 284-38-100 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will re-

wise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner must incorporate documents posted on the SERFF website into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* available within the SERFF application; and

(2) State specific rate and form filing instructions posted on the commissioner's website (www.insurance.wa.gov), including the:

Washington State SERFF Life and Disability Form Filing General Instructions.

[Statutory Authority: RCW 48.02.060, 48.18.030, 48.19.035, 48.20.025, 48.20.550, 48.38.075, 48.43.730, 48.43.733, 48.44.050, and 48.46.030. WSR 20-01-048 (Matter No. R 2019-06), § 284-38-100, filed 12/9/19, effective 1/9/20. Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-100, filed 2/10/14, effective 3/15/14.]

WAC 284-38-110 General charitable gift annuity contract filing rules. Filers and certificate holders must submit complete filings that comply with these rules:

(1) Filers must submit complete filings that comply with the *SERFF Industry Manual* available within the SERFF application as well as state specific instructions applicable to the particular filing, as posted on the commissioner's website (www.insurance.wa.gov), including the:

Washington State SERFF Life and Disability Form Filing General Instructions.

(2) Filers must submit every charitable gift annuity contract to the commissioner electronically using SERFF.

(a) Every charitable gift annuity contract filed in SERFF must be attached to the form schedule.

(b) All written correspondence related to a charitable gift annuity contract filing must be sent in SERFF.

(3) All filed contracts must be legible for both the commissioner's review and retention as a public record. Filers must submit new and replaced contracts to the commissioner for review in final printed form displayed in ten-point or larger type.

(4) Each contract must have a unique identifying number and a way to distinguish it from other editions of the same contract.

(5) Filers must submit a completed compliance checklist provided in the SERFF application with each new charitable gift annuity contract as supporting documentation. If the filing includes more than one new contract, the filer may:

(a) Complete a separate checklist for each charitable gift annuity contract; or

(b) Complete one checklist and submit an explanatory memorandum that lists any material differences between the filed contracts.

[Statutory Authority: RCW 48.02.060, 48.18.030, 48.19.035, 48.20.025, 48.20.550, 48.38.075, 48.43.730, 48.43.733, 48.44.050, and 48.46.030. WSR 20-01-048 (Matter No. R 2019-06), § 284-38-110, filed 12/9/19, effective 1/9/20. Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-110, filed 2/10/14, effective 3/15/14.]

WAC 284-38-120 Filing revised or replaced charitable gift annuity contracts forms. If a revised or replaced charitable gift annuity contract form is being filed, in addition to the requirements of WAC 284-38-110, the filer must provide the following supporting documentation:

(1) If a contract is revised due to an objection(s) from the commissioner, the filer must provide a detailed explanation of all material changes to the disapproved contract.

(2) If a previously approved contract is replaced with a new version, the filer must submit an exhibit that marks and identifies each change or revision to the replaced contract using one of these methods:

(a) A draft contract that strikes through deletions and underlines additions or changes in the contract;

(b) A draft contract that includes comments in the margins explaining the changes in the contract; or

(c) A side-by-side comparison of current and proposed contract language.

[Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-120, filed 2/10/14, effective 3/15/14.]

WAC 284-38-130 Filing authorization rules. (1) A certificate holder may authorize a third party to file charitable gift annuity contracts on its behalf.

(2) If a certificate holder delegates filing authority to a third party, each filing must include a letter signed by an employee of the certificate holder authorizing the third party to make filings on behalf of the certificate holder. This subsection does not apply to a third party that is an affiliate or wholly owned subsidiary of the certificate holder.

(3) The certificate holder may not delegate responsibility for the content of a filing to a third party. The commissioner considers errors and omissions by the third party to be errors and omissions of the certificate holder.

(4) If a third party has a pattern of making filings that do not comply with this subpart, the commissioner may reject a delegation of filing authority from the certificate holder.

[Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-130, filed 2/10/14, effective 3/15/14.]

WAC 284-38-140 The commissioner may reject annuity contract filings. (1) The commissioner may reject and close any filing that does not comply with WAC 284-38-100. If the commissioner rejects a filing, the certificate holder has not filed the charitable gift annuity contract with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives and accepts the new filing.

[Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-140, filed 2/10/14, effective 3/15/14.]

WAC 284-38-150 Responding to objection letters. If the commissioner disapproves a filing under RCW 48.38.010(9), 48.18.110, 48.38.030, or 48.38.042, the objection letter will state the reason(s) for disapproval, including relevant law and administrative rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response includes:

(a) A separate response to each objection; and
(b) If appropriate, revised exhibits and supporting documentation.

(2) Respond to the commissioner in a timely manner.

[Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-150, filed 2/10/14, effective 3/15/14.]

ANNUAL REPORTING REQUIREMENTS

WAC 284-38-200 Annual reporting requirements. (1) Every certificate holder must electronically file with the commissioner a completed annual report within 60 days of its fiscal year end. A copy of the annual report form and instructions for completing and filing the annual report are available on the commissioner's website at www.insurance.wa.gov.

(2) As an ongoing statement of financial condition, required under RCW 48.38.010(10), the certificate holder must annually electronically file the following financial reports:

(a)(i) An audited financial statement specific to the certificate holder prepared in accordance with generally accepted accounting principles for the fiscal year immediately preceding; or

(ii) A consolidated audited financial statement prepared in accordance with generally accepted accounting principles for the fiscal year immediately preceding, which includes a supplemental schedule specific to the certificate holder.

(b) Unless permanently exempt in accordance with Internal Revenue Service regulations, file a complete public inspection copy of the certificate holder's IRS Form 990 within fifteen days of its filing with the IRS.

(c) Any other financial information required by the commissioner.

(3) The audited financial statement must be filed within 15 days of the release date following the certificate holder's fiscal year end.

(4) The failure by a certificate holder to file an audited financial statement within nine months following its most recent fiscal year end, and when applicable its IRS Form 990 within 15 days of its filing with the IRS, will constitute a finding as referenced under RCW 48.38.050 that the certificate holder failed to provide a satisfactory statement of financial condition as required under RCW 48.38.010(10).

The finding may subject the certificate holder to disciplinary action as allowed under RCW 48.38.050.

(5) An encrypted or password protected filing or transmission is not considered filed under RCW 48.38.010(10) and this section.

(6) For purposes of determining whether a filing deadline has been met, a document is considered received if electronically submitted on or before the date it is due.

[Statutory Authority: RCW 48.02.060 and 48.38.010(10). WSR 21-24-100 (Matter No. R 2021-22), § 284-38-200, filed 12/1/21, effective 1/1/22. Statutory Authority: RCW 48.38.075, 48.38.010 (9) and (10), and 48.38.030. WSR 14-05-017 (Matter No. R 2013-24), § 284-38-200, filed 2/10/14, effective 3/15/14.]