

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 813

S. P. 279

In Senate, February 17, 1971

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Kellam of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT to Conform Maine's Corporation Law to the Internal Revenue Code to Permit Tax Exempt Status under Federal Law for Certain Corporations.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 13, § 937, additional. Title 13 of the Revised Statutes is amended by adding a new section 937 to read as follows:

§ 937. Prohibitions and requirements applicable to corporations which are private foundations

1. Prohibitions. No corporation which is a "private foundation" as defined in section 509 (a) of the Internal Revenue Code of 1954, shall:

A. Engage in any act of "self-dealing," as defined in section 4941 (d) of the Internal Revenue Code of 1954, which would give rise to any liability for the tax imposed by section 4941 (a) of the Internal Revenue Code of 1954;

B. Retain any "excess business holdings," as defined in section 4943 (c) of the Internal Revenue Code of 1954, which would give rise to any liability for the tax imposed by section 4943 (a) of the Internal Revenue Code of 1954;

C. Make any investment which would jeopardize the carrying out of any of its exempt purposes, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944 (a) of the Internal Revenue Code of 1954; and

D. Make any "taxable expenditures", as defined in section 4945 (d) of the Internal Revenue Code of 1954, which would give rise to any liability for the tax imposed by section 4945 (a) of the Internal Revenue Code of 1954.

2. Requirements. Each corporation which is a "private foundation" as defined in section 509 of the Internal Revenue Code of 1954 shall distribute, for the purposes specified in its certificate of incorporation, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942 (a) of the Internal Revenue Code of 1954.

3. Application. Subsections 1 and 2 shall not apply to any corporation to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the certificate of incorporation or other instrument governing such corporation or governing the administration of charitable funds held by it and that the same may not properly be changed to conform to such subsections.

4. Impairment. Nothing in this section shall impair the rights and powers of the courts or the Attorney General of this State with respect to any corporation.

5. References. All references to sections of the Internal Revenue Code of 1954 shall include future amendments to such sections and corresponding provisions of future internal revenue laws.

STATEMENT OF FACT

The purpose of this bill is to meet the requirement imposed by the Revenue Act of 1969 that makes it mandatory that the charter of a private foundation contain provisions if that private foundation is to enjoy tax exempt status under the Internal Revenue Code, section 501 (c) (3).