

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 814

S. P. 280

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 Trust Law to the Internal Revenue Code to Permit Tax Exempt Status under Federal Law for Certain Trusts.

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

R. S., T. 18, § 3955, additional. Title 18 of the Revised Statutes is amended by adding a new section 3955 to read as follows:

§ 3955. Prohibitions and requirements applicable to trusts which are private foundations

1. Prohibitions. In the administration of any trust which is a "private foundation," as defined in section 509 of the Internal Revenue Code of 1954, a "charitable trust," as defined in section 4947 (a) (1) of the Internal Revenue Code of 1954, or a "split-interest trust" as defined in section 4947 (a) (2) of the Internal Revenue Code of 1954, the following acts shall be prohibited:

A. Engaging 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. Retaining 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. Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, 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. Making 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;

provided that this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code of 1954.

2. Requirements. In the administration of any trust which is a "private foundation" as defined in section 509 of the Internal Revenue Code of 1954, or which is a "charitable trust" as defined in section 4947 (a) (1) of the Internal Revenue Code of 1954, there shall be distributed, for the purposes specified in the trust instrument, 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 trust to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the instrument governing such trust 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 trust.

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 reflected in the title.