

trust instrument or other governing instrument may not be changed to conform to subdivision 1.

Subd. 3. As used in this section, "trustee" means a corporation, individual, or other legal entity acting as an original, added, or successor trustee of a testamentary or inter vivos trust estate, whichever in a particular case shall be appropriate. Any reference to a particular section of the Internal Revenue Code of 1954 herein shall mean and include, as now enacted or as hereafter amended, such section and any provision of federal law as is or may hereafter be applicable, cognate to such section.

Subd. 4. Nothing in this section shall impair the rights and powers of the attorney general or the courts of this state with respect to any trust.

Approved April 30, 1971.

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## CHAPTER 190—H.F.No.958

[Coded]

*An act relating to corporations; prescribing limitations upon activities of private foundations in accordance with federal law; amending Minnesota Statutes 1969, Chapter 317, by adding a section.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Chapter 317, is amended by adding a section to read:

[317.165] CORPORATIONS; PRIVATE FOUNDATIONS. Subdivision 1. Any instrument creating a corporation which is a "private foundation" (as defined in section 509(a) of the Internal Revenue Code of 1954) and any instrument governing the use, retention, or disposition by such corporation of any of its income or property shall be deemed to have incorporated within such instrument with the same effect as though such language were set forth verbatim in such instrument the following provisions, and except as the contrary is provided in subdivision 2, such provisions shall govern the corporation as to the use, retention, and disposition of its income

Changes or additions indicated by underline, deletions by ~~strikeout~~.

and property irrespective of any provisions of any such instrument, statute, or other law of this state to the contrary:

(1) The corporation shall distribute for each of its taxable years amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1954;

(2) The corporation shall not 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;

(3) The corporation shall not 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;

(4) The corporation shall not make any investments which would jeopardize the carrying out of any of the exempt purposes of the corporation, 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

(5) The corporation shall not make any "taxable expenditure" (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.

Subd. 2. Subdivision 1 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 any instrument described in subdivision 1 and that such instrument may not properly be changed to conform to subdivision 1.

Subd. 3. Any reference in subdivision 1 to a particular section of the Internal Revenue Code of 1954 shall mean and include, as now enacted or as hereafter amended, such section and any provision of federal law as is or may hereafter be applicable, cognate to such section.

Subd. 4. This section applies to all domestic corporations, notwithstanding Minnesota Statutes, Sections 317.04 and 317.06.

Subd. 5. Nothing in this section shall impair the rights and powers of the attorney general or the courts of this state with respect to any corporation.

Approved April 30, 1971.

Changes or additions indicated by underline, deletions by ~~strikeout~~.