

FILED MAR 5 1971

Judiciary 3/9, Pass per amendment 3/25 SENATE FILE 348
Her " " , Pass 4/15

By DeKOSTER and GAUDINEER
(Kreamer and Pelton)

Passed Senate, Date 4-2-71 Passed House, Date 4-28-71
Vote: Ayes 30 Nays 1 Vote: Ayes 81 Nays 0
Approved 5-7-71

A BILL FOR

1 An Act relating to nonprofit corporations.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3
4
5
6
7
8
9
10
11
12
13
14
15

1 Amend Senate File 348, page 3, by striking all of lines
2 13 through 15 inclusive and inserting in lieu thereof the
3 following:
4 Sec. 5. All references to sections of the Internal
5 Revenue Code of 1954 shall mean the Code as amended to and
6 including January 1, 1971.

Filed - adopted 4/2/71
March 25, 1971

By COMMITTEE ON JUDICIARY

23
24
25

1 Section 1. This Act shall apply to every corporation
2 organized under chapters five hundred four (504) or five
3 hundred four A (504A) of the Code, which corporation is deemed
4 to be a private foundation as defined in section five hundred
5 nine (509) of the Internal Revenue Code of 1954, which is
6 incorporated in the state of Iowa after December 31, 1969,
7 and as to any such corporation organized in this state before
8 January 1, 1970, it shall apply only for its federal taxable
9 years beginning on or after January 1, 1972.

10 Sec. 2. The articles of incorporation of every such
11 corporation shall be deemed to contain provisions forbidding
12 the corporation to:

13 1. Engage in any act of self-dealing, as defined in sec-
14 tion four thousand nine hundred forty-one (d) [4941(d)] of
15 the Internal Revenue Code of 1954, which would give rise to
16 any liability for the tax imposed by section four thousand
17 nine hundred forty-one (a) [4941(a)] of the Internal Revenue
18 Code of 1954;

19 2. Retain any excess business holdings, as defined in
20 section four thousand nine hundred forty-three (c) [4943(c)]
21 of the Internal Revenue Code of 1954, which would give rise
22 to any liability for the tax imposed by section four thousand
23 nine hundred forty-three (a) [4943(a)] of the Internal Revenue
24 Code of 1954;

25 3. Make any investment which would jeopardize the carrying
26 out of any of its exempt purposes, within the meaning of sec-
27 tion four thousand nine hundred forty-four (4944) of the
28 Internal Revenue Code of 1954, so as to give rise to any
29 liability for the tax imposed by section four thousand nine
30 hundred forty-four (a) [4944(a)] of the Internal Revenue Code
31 of 1954; and

32 4. Make any taxable expenditures, as defined in section
33 four thousand nine hundred forty-five (d) [4945(d)] of the
34 Internal Revenue Code of 1954, which would give rise to any
35 liability for the tax imposed by section four thousand nine

1 hundred forty-five (a) [4945(a)] of the Internal Revenue Code
2 of 1954.

3 Sec. 3. The articles of incorporation of every such
4 corporation shall be deemed to contain a provision requiring
5 such corporation to distribute, for the purposes specified
6 in its articles of incorporation, for each taxable year,
7 amounts at least sufficient to avoid liability for the tax
8 imposed by section four thousand nine hundred forty-two (a)
9 [4942(a)] of the Internal Revenue Code of 1954.

10 Sec. 4. Nothing in this Act shall impair the rights and
11 powers of the courts or the attorney general of this state
12 with respect to any corporation.

13 Sec 5. All references to sections of the Internal Revenue
14 Code of 1954 shall include future amendments to such sections
15 and corresponding provisions of future Internal Revenue Laws.

16 Sec. 6. Nothing in this Act shall limit the power of any
17 nonprofit corporation organized under chapter five hundred
18 four (504) of the Code or organized under chapter five hundred
19 four A (504A) of the Code:

20 1. To at any time amend its articles of incorporation
21 or other instrument governing such corporation by any amendment
22 process allowable under the laws of this state to provide
23 that some or all provisions of sections two (2) and three
24 (3) of this Act shall have no application to such corporation,
25 or

26 2. In the case of any such corporation formed after the
27 effective date of this Act, to include any specific provisions
28 in its original articles of incorporation, which provide that
29 some or all provisions of sections two (2) and three (3) of
30 this Act shall have no application to such corporation.

31 EXPLANATION

32 The 1969 amendment to the Internal Revenue Code imposed
33 additional requirements for nonprofit corporations which are
34 private foundations if they are to continue to enjoy to the
35 maximum possible extent, the tax advantages available to such

1 nonprofit corporations which are private foundations.

2 This bill has been drafted to make it unnecessary for each
3 separate corporation to amend its articles of incorporation
4 in order to meet the new federal requirements. This bill
5 accomplishes its purpose by stating in effect that the articles
6 of incorporation of every such corporation shall be deemed
7 to contain the provisions needed to comply with the federal
8 requirements. At the same time, it permits a corporation
9 which does not wish to comply with the federal requirements,
10 to amend its articles to exclude the provisions which this
11 Act would otherwise deem to be a part of the articles of
12 incorporation.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35