§ 216-b. Private foundations, as defined in the United States internal revenue code of 1954: provisions included in the charter.

1. The following provisions are hereby included in the charter, heretofore or hereafter granted under this chapter, to incorporate an institution or association (chartered organization) which is a private foundation as defined in section 509 of the United States internal revenue code of 1954 ("Code").

a. The chartered organization shall distribute such amounts for each taxable year at such time and in such manner as not to subject the chartered organization to tax on undistributed income under section 4942 of the code.

b. The chartered organization shall not engage in any act of self-dealing which is subject to tax under section 4941 of the code.

c. The chartered organization shall not retain any excess business holdings which are subject to tax under section 4943 of the code.

d. The chartered organization shall not make any investments in such manner as to subject the corporation to tax under section 4944 of the code.

e. The chartered organization shall not make any taxable expenditures which are subject to tax under section 4945 of the code. Except as provided in subdivision two, this subdivision applies notwithstanding any other provision of the charter or any direction in an instrument by which assets were transferred to the chartered organization.

2. Subdivision 1 shall not apply to the extent that it conflicts with any mandatory direction in an instrument by which assets were transferred to the chartered organization prior to the effective date of this section unless such conflicting direction is removed as impracticable under article eight of the estates, powers and trusts law or in any other manner provided by law. The absence of a specific provision in such an instrument for the current use of the principal of

the fund, or the presence in such an instrument of a provision, as to the principal of the fund, limited to the principal's being held, invested and reinvested, is not such a conflicting mandatory direction.

3. All references in this section to sections of the code shall be to sections as amended from time to time, or to corresponding provisions of subsequent internal revenue laws.

4. Nothing in this section shall impair the rights and powers of the courts or the attorney-general of this state.