

ENROLLED BILL

Committee Sub. for
Senate Bill No. 10

Originating in the Committee on
(By Mr. Banks and Corporations)

Passed March 7, 1931

In Effect from Passage

Originated in the Senate Takes effect from Passage
M. S. Hager Clerk of the House of Delegates.

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Jacob L. Smith Chairman Senate Committee.
Concurrence Chairman House Committee.

ENROLLED BILL

(S. B. No. 10)

[Passed March 7, 1931; in effect from passage.]

AN ACT to amend chapter thirty-one of the official code of West Virginia by adding thereto article ten relating to the incorporation, establishment and operation of loan and savings institutions known as "credit unions."

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the official code of West Virginia be amended by adding thereto article ten relating to the incorporation, establishment and operation of "credit unions" and reading as follows:

Section 1. Any eight persons, residents of the State of West Virginia and having a common bond of occupation or association, may apply to the secretary of state for permission to

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4 organize a credit union. A credit union shall be organized in
5 the following manner:

6 (a) The applicants shall execute in duplicate an incorpora-
7 tion agreement by the terms of which they agree to be bound.

8 The agreement shall state:

9 (1) The name of the proposed credit union;
10 (2) The post-office address of its principal office or place of
11 business;

12 (3) The names and post-office addresses of the incorporators,
13 and the number of shares subscribed by each;

14 (4) The total number of shares of stock which the credit
15 union shall have authority to issue and the par value of each
16 share, which par value shall not exceed ten dollars.

17 (b) The applicants shall then prepare and adopt by-laws
18 for the general government of the credit union consistent with
19 the provisions of this article, and execute the same in duplicate.
20 The by-laws shall specify:

21 (1) The date of the annual meeting, which shall be in Janu-
22 ary of each calendar year, requirements as to notice and man-
23 ner of conducting such meeting;

24 (2) The number of directors, which shall be not less than

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25 five, all of whom must be shareholders and members of the
26 credit union, their powers and duties; and the compensation
27 and duties of all officers;

28 (3) The conditions and qualifications for membership;

29 (4) The number of members of the credit committee and of
30 the supervisory committee, with their respective powers and
31 duties;

32 (5) The conditions upon which shares may be issued, trans-
33 ferred and withdrawn;

34 (6) The charges, if any, to be made for failure to meet
35 obligations punctually;

36 (7) The conditions upon which deposits may be received and
37 withdrawn, and whether the credit union shall have the power
38 to borrow;

39 (8) The manner in which the funds of the credit union shall
40 be invested;

41 (9) The conditions upon which loans may be made and re-
42 paid;

43 (10) The method of receipting for money paid in on account
44 of shares, deposits and loans;

45 (11) The manner in which the reserve fund shall be accu-

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46 mulated;

47 (12) The manner in which dividends shall be determined
48 and paid out.

49 (c) The agreement and by-laws, both executed in duplicate,
50 shall be forwarded to the secretary of state;

51 (d) The secretary of state, within thirty days after the re-
52 ceipt of such agreement, shall determine whether it conforms to
53 the provisions of this article, and whether or not the organiza-
54 tion of the credit union in question would benefit the organizers
55 of it, and be consistent with the purposes of this article;

56 (e) Thereupon the secretary of state shall notify the appli-
57 cants of his decision. If it is favorable, he shall issue a charter,
58 attach the charter to the duplicate of the agreement and return
59 the same, together with the duplicate of the by-laws to the appli-
60 cants: *Provided, however,* That the secretary of state shall issue
61 no charter to any credit union to do business in this state until
62 such incorporation agreement and by-laws have been approved
63 in writing by the commissioner of banking;

64 (f) The applicants shall thereupon file such charter in the
65 office of the clerk of the county court of the county in which the
66 principal office of the credit union is to be located, and such

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67 clerk shall record such charters, the usual fees to be charged
68 for such recordation;

69 (g) When any credit union authorized by this article desires
70 to begin business, it must notify the commissioner of banking,
71 who shall at his earliest convenience make an examination of its
72 affairs. Having satisfied himself that all the conditions prece-
73 dent have in good faith been complied with, said commissioner
74 shall then issue to such credit union, under his hand and official
75 seal, a certificate of authority reciting that such examination
76 has been made and that the credit union is authorized to com-
77 mence business, which certificate shall be displayed in the busi-
78 ness place of such credit union and for which certificate of
79 authority said commissioner shall collect a fee of ten dollars,
80 which shall be paid into the state treasury as provided for other
81 fees. But the commissioner may withhold from any credit union
82 his certificate authorizing the commencement of business when-
83 ever he has reason to suppose that the members have formed the
84 same for any other than the legitimate objects contemplated in
85 this article.

86 In order to simplify the organization of credit unions, the
87 commissioner of banking shall cause to be prepared an approved

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88 form of incorporation agreement and form of by-laws consistent
89 with this article, which may be used by credit union incorpor-
90 ators for their guidance and, upon written request of any resi-
91 dent of the State of West Virginia, the commissioner of banking
92 shall supply such resident with two blank incorporation agree-
93 ments and two copies of such form of suggested by-laws free
94 of charge.

Sec. 2. Any and all amendments to the by-laws must be
2 approved in writing by the commissioner of banking before they
3 shall become operative.

Sec. 3. The use by any person, copartnership, association
2 or corporation, except corporations formed under the provisions
3 of this article, of any name or title which contains the words
4 "credit union," shall be a misdemeanor, punishable by a fine
5 of not less than ten nor more than one hundred dollars for each
6 day of the illegal use of such name, and such use may be en-
7 joined by any court having equity jurisdiction over the party
8 or parties.

Sec. 4. A credit union shall have the following powers:

2 (a) To receive the savings of its members either as pay-

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3 ment on shares, or as deposits (including the right to conduct
4 Christmas clubs, vacation clubs and other such thrift organiza-
5 tions within the membership);

6 (b) To make loans to members for provident or productive
7 purposes;

8 (c) To make loans to cooperative society or other organiza-
9 tion having membership in the credit union;

10 (d) To deposit funds in state and national banks;

11 (e) To invest in any investment legal for savings banks;

12 (f) To borrow money as hereinafter indicated.

Sec. 5. Credit union membership shall consist of the incor-
2 porators and such other persons as may be elected to member-
3 ship and subscribe to at least one share, pay the initial in-
4 stallment thereon and the entrance fee. Organizations (in-
5 corporated or otherwise) composed for the most part of the
6 same general group as the credit union membership may be
7 members. Credit union organizations shall be limited to groups
8 (of both large and small membership) having a common bond
9 of occupation or association.

Sec. 6. Credit unions shall be under the supervision of the
2 commissioner of banking. They shall report to him at least

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3 semi-annually on or before the first day of January and the
4 first day of July of each calendar year, on blanks supplied by
5 the said commissioner for that purpose. Additional reports
6 may be required by said commissioner. Credit unions shall be
7 examined annually by the commissioner of banking, except that,
8 if a credit union has assets of less than twenty-five thousand
9 dollars, he may accept the audit of a certified public accountant
10 in place of such examination. The fee for such examination shall
11 be fifteen dollars for credit unions with assets less than twenty-
12 five thousand dollars and twenty-five dollars for credit unions
13 with more than twenty-five thousand dollars in assets. For fail-
14 ure to file reports when due, unless excused for cause, the credit
15 union shall pay to the treasurer of the state five dollars for
16 each day of its delinquency. If the commissioner of banking
17 determines that a credit union is violating any provision of this
18 article, or is insolvent, said commissioner may serve notice on
19 such credit union of his intention to revoke the certificate of
20 approval. If, for a period of fifteen days after such notice,
21 such violation continues, the commissioner of banking may re-
22 voke such certificate and take possession of the business and
23 property of such credit union and maintain possession until

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24 such time as he shall permit it to continue business or its affairs
25 are finally liquidated. He may take similar action if such report
26 remains in arrears for more than fifteen days.

Sec. 7. The fiscal year of every such corporation shall end
2 at the close of business on the thirty-first day of December. The
3 annual meeting of the corporation shall be held in January.
4 Special meetings may be held by order of the directors or of the
5 supervisory committee, and shall be held upon request, in writ-
6 ing, of ten per cent of the members. Notice of all meetings
7 of the corporation shall be given in the manner prescribed in
8 the by-laws. At all meetings of members, a member shall have
9 but one vote, irrespective of the number of shares held. No
10 shareholder may vote by proxy, but a society, association, co-
11 partnership or corporation, having membership in a credit
12 union, may be represented by one person authorized by such
13 society, association, copartnership, or corporation to so repre-
14 sent it. At any meeting the members may decide upon any
15 question of interest to the corporation, and overrule the board
16 of directors; and, by a three-fourths vote of those present and
17 represented, may amend the by-laws, if the notice of the meeting
18 shall have specified the question to be considered.

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Sec. 8. At the annual meeting the members shall elect a board of directors of not less than five members, a credit committee and a supervisory committee of not less than three members each. However, in the discretion of the members, the board of directors as such may also be the credit committee. Except as herein specified, no member of such board shall be a member of either of such committees, nor shall one person be a member of more than one of such committees, and all members of committees and all directors, as well as all officers whom they may elect, shall make oath as hereinafter provided, and shall hold their several offices for such terms as may be determined by the by-laws.

The oath required of each director, officer and member of a committee shall be the oath of the individual making the same, that he will, as far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such corporation, and that he is the owner in good faith and in his own right on the books of the corporation of at least one share therein. Such oath shall be subscribed by the individual making it, and certi-

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22 filed by the officer before whom it is taken, and shall immedi-
23 ately be transmitted to the commissioner of banking and filed
24 and preserved in his office.

Sec. 9. At their first meeting, and at the first meeting in
2 each fiscal year, the board of directors shall elect from their
3 number a president, vice-president, a secretary and a treasurer.
4 The office of secretary and treasurer may, if the by-laws so pro-
5 vide, be held by one person; and other officers may be elected
6 in the discretion of the directors. The board of directors shall
7 have the general management of the affairs, funds and records
8 of the corporation, and shall meet as often as may be necessary.
9 Unless the by-laws specifically reserve all or any of these duties
10 to the members, it shall be the special duty of the directors:
11 (a) To act upon all applications for membership and the ex-
12 pulsion of members; (b) to fix the amount of the bond which
13 shall be required of each officer having the custody of funds,
14 which bond shall be signed as surety by some indemnity com-
15 pany duly licensed to transact business in West Virginia, the
16 amount thereof to be approved by the commissioner of banking;
17 (c) to determine from time to time the rate of interest which
18 shall be allowed on deposits and charged on loans; (d) to fix the

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19 maximum number of shares which may be held by, and the
20 maximum amount which may be loaned to, any one member;
21 (e) to declare dividends; (f) to recommend amendments to the
22 by-laws; (g) to appoint persons to fill vacancies in the board
23 of directors or in the credit committee until the election and
24 qualification of their successors; (h) to have charge of the in-
25 vestment of the funds of the corporation; (i) to perform such
26 other duties as the members from time to time authorize.

27 No member of the board of directors or of the credit or
28 supervisory committee shall receive any compensation for his
29 services as a member of such board or committees.

Sec. 10. The credit committee shall approve every loan or
3 advance made by the corporation to members. Every applica-
4 tion for a loan shall be made in writing on a form prepared by
5 the board of directors and shall state the purpose for which the
6 loan is desired and the security offered. No loan shall be made
7 if it has not received the approval of the entire number of
8 such committee present when it was considered, which number
9 shall be at least a majority of the members of such committee,
10 nor if any member of such committee shall disapprove thereof,
11 but the applicant for a loan may appeal from the decision of

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11 the credit committee to the board of directors. The credit
12 committee shall meet as often as may be required, after due
13 notice has been given to each member.

Sec. 11. The supervisory committee shall inspect the se-
2 curities, cash and accounts of the corporation and supervise the
3 acts of the board of directors, credit committee and officers. At
4 any time the supervisory committee, by a unanimous vote,
5 may suspend the credit committee or any member thereof, or
6 any member or members of the board of directors, or any offi-
7 cer or officers elected by the board, and by a majority vote they
8 may call a meeting of the shareholders to consider any violation
9 of this article or of the by-laws, or any practice of the corpora-
10 tion which, in the opinion of such committee, is unsafe and un-
11 authorized. Within seven days after the suspension of the credit
12 committee, or any member thereof or of any director or officer,
13 the supervisory committee shall cause notice to be given of a
14 special meeting of the members to take action relative to such
15 suspension. The supervisory committee shall fill vacancies in
16 their own number until the next meeting of the members.

17 At the close of each fiscal year, the supervisory committee
18 shall make or cause to be made a thorough audit of the receipts,

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19 disbursements, income, assets and liabilities of the corporation
20 for such fiscal year, and shall make a full report thereon to
21 the directors. Such report shall be read at the annual meeting
22 of the members and shall be filed and preserved with the records
23 of the corporation.

Sec. 12. The capital of the credit union shall consist of the
2 payments that have been made to it by the several members
3 thereof on shares. The par value of the shares shall not exceed
4 ten dollars per share and shall be paid for in money only.
5 Shares may be subscribed for and paid in such manner as the
6 by-laws shall prescribe, not inconsistent with the provisions of
7 this article. A credit union shall have a lien on the shares of any
8 member and upon any dividends payable thereon for and to
9 the extent of any loan made to him and of any dues and fines
10 payable by him. A credit union may, upon the resignation or
11 expulsion of a member, cancel the shares of such member and
12 apply the withdrawal value of such shares toward the liqui-
13 dation of such member's indebtedness.

14 A credit union may, if the by-laws so provide, charge an en-
15 trance fee for each share subscribed, to be paid by the share-
16 holder upon his election to membership.

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17 Fully paid shares of a credit union may be transferred to any
18 person on election to membership upon such terms as the by-
19 laws may provide, and the payment of a transfer fee which
20 shall not exceed twenty-five cents per share.

Sec. 13. Shares may be issued and deposits received in the
2 name of a minor, and such shares and deposits may be with-
3 drawn by such minor, and in such case payments made on such
4 withdrawals shall be valid. If shares are held or deposits made
5 in trust, the name and residence of the beneficiary shall be dis-
6 closed, and the account shall be kept in the name of such holder
7 as trustee for such person. Such shares and deposits may,
8 upon the death of the trustee, be withdrawn by the person for
9 whom the shares were held or for whom such deposits were
10 made, by his legal representatives.

Sec. 14. For failure by any member of a credit union to
2 meet his payments on shares when due, such charges and other
3 penalties may be imposed upon the delinquent member as the
4 by-laws provide. Such charges shall not exceed one and one-
5 half per cent per month or a fraction thereof on amounts due,
6 except that a minimum charge of five cents per month may be
7 imposed.

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Sec. 15. A credit union may receive the savings and deposits of its members in such amounts and upon such terms as the board of directors may determine and the by-laws shall provide.

Sec. 16. A credit union may lend to its members at reasonable rates, or invest as hereinafter provided, the funds accumulated. The rates of interest shall not exceed one and one-half per cent per month, computed on unpaid balances.

Sec. 17. If the by-laws so provide, a credit union shall have the power to rediscount, as hereinafter provided, or to borrow money from any source, in addition to receiving deposits, as indicated in section fifteen, but the aggregate amount of such rediscounts and borrowings shall at no time exceed twenty per cent of the sum total of the capital, surplus and reserve funds of such borrowing credit union.

Sec. 18. The capital deposits, undivided profits and reserve funds of the corporation may be invested in the following ways, and in such ways only: (a) Loaned to members of the corporation in accordance with the provisions of this article; (b) deposited to the credit of the corporation in a banking institution incorporated under the laws of this state, or in national banks

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7 operating in this state; (c) in any investment which is legal for
8 savings banks in the State of West Virginia.

Sec. 19. As provided in section eighteen of this article, a
2 credit union may loan to its members for such purposes and
3 upon such security and terms as the by-laws shall provide and
4 the credit committee shall approve; but security must be taken
5 for any loan in excess of fifty dollars. Endorsement of a note
6 or assignment of shares in any credit union shall be deemed
7 security within the meaning of this section.

8 A member who needs funds with which to purchase necessary
9 supplies for growing crops may receive a loan in fixed monthly
10 installments instead of in one sum.

11 If any member of the credit committee makes application to
12 borrow money from a credit union or becomes surety for any
13 other member whose application for a loan is under considera-
14 tion, the supervisory committee shall appoint a substitute to
15 act on the credit committee in the place of such member, during
16 the consideration of such applications. All officers and members
17 of any committee in any way knowingly permitting or partici-
18 pating in making a loan of funds of a credit union to a non-
19 member thereof shall be guilty of a misdemeanor. The credit

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20 union shall have the right to recover the amount of any such
21 illegal loan from the borrower or from any officer or member
22 of a committee who knowingly committed or participated in the
23 making thereof, or from all of them jointly.

24 A borrower may repay the whole or any part of his loan on
25 any day on which the office of the corporation is open for the
26 transaction of business.

Sec. 20. All entrance fees, transfer fees and charges shall,
2 after the payment of organization expenses, be known as re-
3 serve income, and shall be added to the reserve fund of the
4 corporation.

5 At the close of each fiscal year there shall be set apart to
6 the reserve fund ten per cent of the net income of the
7 corporation which has accumulated during the year. But upon
8 the recommendation of the board of directors, the members at
9 an annual meeting may increase, and, whenever such funds
10 equal the amount of the capital, may decrease, the proportion
11 of profits which is required by this section to be set apart to the
12 reserve fund.

13 The reserve fund shall belong to the corporation and shall be
14 held to meet contingencies, and shall not be distributed to the

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15 members, except upon dissolution of the corporation.

Sec. 21. At the close of the fiscal year a credit union may
2 declare a dividend upon the net earnings. Dividends shall be
3 paid on all fully paid shares outstanding at the close of the
4 fiscal year, but shares which become fully paid during the year
5 shall be entitled to a proportional part of such dividend calcu-
6 lated from the first day of the month following such payment
7 in full.

Sec. 22. Notes, drafts and bills of exchange, executed for
2 the purpose of this article, having a maturity not to exceed six
3 months, and endorsed by a national bank, a state bank or a trust
4 company, may be rediscounted in the open market. The total
5 of such paper outstanding shall at no time exceed the paid-in
6 capital and surplus: *Provided, however,* That the commissioner
7 of banking, in his discretion, may extend this limit tempor-
8 arily. *And provided further,* That the limitation here fixed
9 shall not be considered money borrowed under section seven-
10 teen.

Sec. 23. At any regularly called meeting, the members, by
2 a two-thirds vote of those present, may expel from the cor-
3 poration any member thereof; but such expulsion shall be made

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4 only after a hearing on the part of the member to be expelled.

5 A member may withdraw from a credit union as hereinafter
6 provided, by filing a written notice of such intention.

7 All amounts paid in on shares of an expelled or withdrawn
8 member, with any dividends credited to his shares to the date
9 of expulsion or withdrawal, shall be paid to such member in
10 the order of expulsion or withdrawal but only as funds there-
11 for become available, after deducting any amounts due to the
12 corporation from such member. All deposits of an expelled or
13 withdrawn member, with any interest accrued, shall be paid to
14 such member, subject to sixty days' notice, and after deducting
15 any amounts due the corporation from such member. Such
16 member, when withdrawing shares or deposits, shall have no
17 other or further right in such credit union, or to any of its
18 benefits, but such expulsion or withdrawal shall not operate
19 to relieve such member from any remaining liability to the
20 corporation.

Sec. 24. The process of voluntary dissolution shall be as
2 follows:

3 (a) At a meeting called for the purpose (notice of which
4 purpose must be contained in the call) four-fifths of the entire

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5 membership of the credit union may vote to dissolve the entire
6 union;

7 (b) Thereupon, there shall be filed with the secretary of state
8 a statement of their consent to dissolution, attested by a ma-
9 jority of the officers and including the names and addresses of
10 the officers and directors;

11 (c) The commissioner of banking shall determine whether
12 or not the credit union is solvent. If such is the fact, he shall
13 cause to be issued in duplicate a certificate to the effect that
14 this section has been complied with;

15 (d) The certificate shall be filed with the clerk of the county
16 court of the county in which the principal office of the credit
17 union is located, whereupon the credit union shall be dissolved
18 and shall cease to carry on business, except for the purpose of
19 liquidation;

20 (e) The credit union shall continue in existence for the
21 purpose of discharging its debts, collecting and distributing its
22 assets and doing all other acts required, in order to wind up
23 its business, and may sue and be sued for the purpose of en-
24 forcing such debts and obligations until its affairs are fully
25 adjusted and wound up, for three years.

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Sec. 25. A credit union may change its place of business on
2 written notice to and approval of the commissioner of banking.

Sec. 26. All credit unions which have been heretofore legally
2 organized under chapter thirty-six of the acts of the legislature
3 of one thousand nine hundred twenty-five, and which were in
4 existence on the thirty-first day of December, one thousand nine
5 hundred thirty, shall, upon the passage of this act, be consid-
6 ered organized under the provisions of this act, and shall not
7 be required to obtain a new charter or to reorganize hereunder,
8 and all acts and things done by any such credit unions so
9 organized under chapter thirty-six of the acts of the legisla-
10 ture of one thousand nine hundred twenty-five, insofar as
11 such acts and things shall not have constituted any violation of
12 law or the provisions of said acts of the legislature of one
13 thousand nine hundred twenty-five, shall be as valid and as
14 effective as if the provisions of this act had taken effect on the
15 first day of January, one thousand nine hundred thirty-one.

Sec. 27. Any violation of this article shall be deemed a mis-
2 demeanor and any person convicted thereof shall be fined not
3 less than one hundred nor more than five hundred dollars and

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4 imprisoned in the county jail not less than one month nor more
5 than six months.

Sec. 28. All acts and parts of acts inconsistent with this
2 act insofar as they affect credit unions only, are hereby re-
3 pealed.

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Charles W. Meadows
Chairman House Committee.

J. Alfred Taylor
Speaker of the House of Delegates.

B. H. Hinson
Clerk of the House of Delegates.

W. G. Gentry
President of the Senate.

M. S. Hodges
Clerk of the Senate.

The within is *Approved*
this *12th* day of *March*, 1931.

W. G. Gentry
Governor.

Filed in the office of the Secretary of State
of West Virginia. *MAR 13 1931*
GEORGE W. SHARP,
Secretary of State.