

Rec., June 3

223

ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

House Bill No. 223

(By Mr. Randolph)

Passed June 3, 1933

In Effect from Passage

Originated in the.....

Takes effect.....

Passage.....

House
Geo. St. Hall
Clerk.

Geo. St. Hall
Clerk House of Delegates.

CORRECTLY ENROLLED

James L. Smith
Chairman House Committee.

James L. Smith
Chairman Senate Committee.

ENROLLED BILL

(H. B. No. 223)

[Passed June 3, 1933; in effect from passage.]

AN ACT to amend and reenact section four-(b), section six-(b) and section twenty-one of engrossed senate bill number twenty-three, passed May seventeenth, one thousand nine hundred thirty-three, extraordinary session, relating to speculative securities and fraudulent sales.

Be it enacted by the Legislature of West Virginia:

That section four-(b), section six-(b) and section twenty-one of engrossed senate bill number twenty-three, passed May seventeenth, one thousand nine hundred thirty-three, extraordinary session, be amended and reenacted to read as follows:

Section 4-(b). By or for the account of a pledgee, holder or
2 mortgagees selling or offering for sale or delivery in the ordinary
3 course of business and not for the purpose of avoiding the pro-

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James A. Hays

Chairman Senate Committee.

visions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt;

Section 6-(b). Any bond or note secured by a first mortgage upon agricultural lands used and valuable principally for agricultural purposes (not including oil, gas or mining property or leases), or upon city, town or village real estate or leaseholds situated in any state or territory of the United States or in the District of Columbia or in the Dominion of Canada, as follows: (1) When the mortgage is a first mortgage upon such agricultural lands, used and valuable principally for agricultural purposes, and when the aggregate face value of such bonds or notes, not including interest notes or coupons, secured thereby does not exceed seventy-five per cent of the then fair market value of any improvements thereon; or (2) When the mortgage is a first mortgage upon city, town or village real estate or leaseholds, and when the aggregate face value of such bonds or notes, not including interest notes or coupons, secured by such real estate or leaseholds does not exceed seventy-five per cent of the then fair market value of such mortgaged real estate or leaseholds, respectively, including any improvements appurtenant thereto, and when such mort-

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20 gaged property is used principally to produce through rental a
21 net annual income, after deducting operating expenses and
22 taxes, or has a fair rental value after deducting operating expen-
23 ses and taxes, at least equal to the annual interest plus not less
24 than three per cent of the principal of such mortgage indebted-
25 ness; or (3) When the mortgage is a first mortgage upon city,
26 town or village real estate or leaseholds upon which real estate or
27 leaseholds upon which real estate or leaseholds a building or
28 buildings is or are about in good faith forthwith to be erected
29 according to the expressed terms of the mortgage, and when
30 reasonably adequate provision has been made for financing
31 the full completion of such building free and clear of any lien
32 superior to such mortgage, and when the aggregate face value
33 of the bonds or notes not including interest notes or coupons,
34 secured by such first mortgage does not exceed seventy-five
35 per cent of the fair market value of such mortgaged property,
36 including the building or buildings to be erected thereon as
37 aforesaid, and when such mortgaged property is to be used
38 principally to produce through rental a net annual income,
39 after deducting operating expenses and taxes, or will have a
40 fair rental value after deducting operating expenses and taxes,

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41 at least equal to the annual interest plus not less than three per-
42 centum of the principal of such mortgage indebtedness: *Pro-*
43 *vided*, That all advertisements, circulars and letters advertising
44 the sale of such bonds or notes and all receipts of payments
45 therefor shall bear in bold type upon the face thereof a legend
46 stating that such bonds or notes are construction bonds or
47 notes, and all other written or printed offerings of such bonds
48 or notes shall contain a statement to the same effect. A satisfac-
49 tory completion bond covering the full amount of costs of a
50 building or buildings to be erected, or other improvements
51 to be made, shall be filed with the commissioner. All funds
52 or things of value received for such securities shall be sub-
53 ject to supervision by the commissioner until a satisfactory
54 guarantee of completion of buildings or improvements is pro-
55 vided.

56 The provisions of this subdivision (b) shall not apply in the
57 case of bonds or notes secured wholly or partly by first mort-
58 gage on leaseholds, the value of which leaseholds is required
59 to meet the ratio of property value to face value of obligations
60 as provided in clauses (2) and (3) above, unless all advertise-
61 ments, circulars and letters advertising the sale of such bonds

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Henry A. Rogers

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62 or notes and all receipts of payments therefor, and such bonds
63 and notes shall bear in bold type not less than eighteen point
64 upon the face thereof a legend stating that such bonds or notes
65 are secured wholly or partly by mortgage on a leasehold, as the
66 case may be, and all other written or printed offerings of such
67 bonds or notes shall contain a statement to the same effect.

68 When used in this subdivision (b) the term "Mortgage"
69 shall be deemed to include a trust deed to secure a debt.

70 Securities entitled to registration by notification shall be
71 registered by the filing, by the issuer or by any registered
72 dealer interested in the sale thereof, in the office of the com-
73 missioner, of a statement with respect to such securities con-
74 taining such information and data as the commissioner may
75 then and from time to time thereafter request. Such regis-
76 tration shall be revoked or suspended at any time by the com-
77 missioner pending further investigation by specifying the
78 reasons for such actions and by notifying personally by mail,
79 telephone or telegraph the person filing such information or
80 statement, and every registered dealer who shall have notified
81 the commissioner of an intention to sell such security. The
82 re-registration or lifting of suspension shall be at the discretion

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James A. Hyman

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83 of the commissioner. Upon the entry of any such order of
84 suspension no further sale of such security shall be made until
85 the further order of the commissioner.

86 In the event of the entry of such order of suspension the
87 commissioner shall upon request give a prompt hearing to
88 the parties interested. If no hearing is requested within a
89 period of twenty days from the entry of such order or if
90 upon such hearing the commissioner shall determine that any
91 such security does not fall within a class entitled to registra-
92 tion under this section, or that the sale thereof would be
93 fraudulent or would result in fraud, he shall enter a final
94 order prohibiting sales of such security, with his findings with
95 respect thereto: *Provided*, That if the findings with respect
96 to such security is that it is not entitled to registration under
97 this section, the applicant may apply for registration by
98 qualification by complying with the requirements of section
99 seven of this article. Appeals from such final order may be
100 taken as hereinafter provided. If, however, upon such hear-
101 ing, the commissioner shall find that the security is entitled
102 to registration under this section, and that its sale will neither
103 be fraudulent nor result in fraud, he shall forthwith enter an

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James A. Hays
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104 order revoking such order of suspension and such security
105 shall be restored to its status as a security registered under
106 this section, as of the date of such order of suspension.

107 At the time of filing the statement, as hereinbefore pre-
108 scribed in this section, the applicant shall pay to the com-
109 missioner a fee of one-twentieth of one per cent of the aggre-
110 gate par value of the securities to be sold in this state for
111 which the applicant is seeking registration, but in no case
112 shall such fee be less than twenty-five dollars or more than
113 one hundred dollars. In the case of stock having no par
114 value, the price of which such stock is to be offered to the
115 public shall be deemed to be the par value of such stock.

116 Every registration under this section shall expire on the
117 thirtieth day of June in each year, but new registrations for
118 the succeeding year shall be issued upon written application
119 and upon payment of a fee of one-twentieth of one per cent
120 of the total amount of such security to be sold in West Vir-
121 ginia, within the year of registration, the minimum fee to be
122 twenty-five dollars—and by filing of further statements or
123 furnishing any further information specifically required by
124 the commissioner. Applications for renewals must be made

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125 not less than thirty days before the first day of the ensuing
126 registration year, otherwise they shall be treated as original
127 applications.

Sec. 21. Any person, issuer, dealer, salesman or agent who
2 shall sell or offer any securities without compliance with the
3 provisions of this article, shall be guilty of a felony and, upon
4 conviction thereof, shall be punished by a fine of not more than
5 five thousand dollars, or by imprisonment in the penitentiary for
6 not more than five years, or by both such fine and imprisonment,
7 at the discretion of the court.

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William A. D. H.
Chairman Senate Committee.

James L. Smith
Chairman House Committee.

B. M. Storer
Speaker of the House of Delegates.

Geo. L. Hume
Clerk of the House of Delegates.

B. M. Storer
President of the Senate.

David Donnelly
Clerk of the Senate.

The within is.....

this.....day of....., 1933.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. **JUN 12 1933**
Wm. S. O'BRIEN,
Secretary of State