

Rec., Mar. 11, 1933

141

# ENROLLED BILL

Regular Session

SENATE BILL NO. 141

By Mr. White, of Hampshire

PASSED March 11, 1933

IN EFFECT from PASSAGE

Originating in the Senate Takes effect Passage.

Clerk of the House of Delegates.

Chairman Senate Committee.

CORRECTLY ENROLLED

Clerk.

Chairman House Committee.

## ENROLLED BILL

(S. B. No. 141)

[Passed March 11, 1933; in effect from passage.]

AN ACT to amend and reenact sections six, eight and thirteen of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to nonprofit, cooperative, agricultural associations.

*Be it enacted by the Legislature of West Virginia:*

That sections six, eight and thirteen, article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 6. Each association formed under this article must

2 prepare and file articles of incorporation, setting forth:

3 (a) The name of the association;

4 (b) The purposes for which it is formed;

*A. Hyatt*

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(c) The place where its principal business will be transacted;

(d) The period, if any prescribed, for the duration of the corporation;

(e) The number of incorporators which shall not be less than five, the number of directors which shall not be less than five and may be any number in excess thereof, or it may be set forth that the number of directors shall be fixed by the by-laws;

(f) If organized without capital stock, whether the property rights and interest of each member be equal or unequal; and if unequal, the general rule or rules applicable to all members, or classes of members, by which the property rights and interest, respectively, of each member may and shall be determined and fixed; and provision for the admission of new members who shall, or shall not be, entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision or paragraph of the articles of incorporation shall not be altered, amended, or repealed except by the written consent or vote of three-fourths of the members;

(g) If organized with capital stock and authorized to issue

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26 only one class of stock, the total number of shares of stock  
 27 which the association shall have authority to issue and (1) the  
 28 par value of each of such shares, or (2) a statement that all  
 29 such shares are to be without par value; or, if the association  
 30 is to be authorized to issue more than one class of stock, the  
 31 total number of shares of all classes of stock which the associa-  
 32 tion shall have authority to issue and (1) the number of shares  
 33 of each class thereof that are to have a par value and the par  
 34 value of each share of each such class, and/or (2) the number  
 35 of such shares that are to be without par value, and (3) a state-  
 36 ment of all or any of the designations and the powers, prefer-  
 37 ences and rights, and the qualifications, limitations or restric-  
 38 tions thereof, which are permitted by the provisions of section  
 39 thirteen of this article in respect of any class or classes of stock  
 40 of the association and the fixing of which by the articles of in-  
 41 corporation is desired, and an express grant of such authority  
 42 as it may then be desired to grant to the board of directors to  
 43 fix by resolution or resolutions any thereof that may be desired  
 44 but which shall not be fixed by such articles;

45 The articles must be subscribed by the incorporators and  
 46 acknowledged by one of them before an officer authorized by

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47 the law of this state to take and certify acknowledgments of  
48 deeds and conveyances; and shall be filed in accordance with  
49 the provisions of the general corporation law of this state; and,  
50 when so filed, such articles of incorporation, or certified copies  
51 thereof, shall be received in all the courts of this state and other  
52 places as prima facie evidence of the facts contained therein  
53 and of the due incorporation of such association;

54 The secretary of state shall provide suitable application  
55 blanks and supply them on request;

56 (h) The articles may also contain any provisions which the  
57 incorporators may choose to insert for the management of the  
58 business and for the conduct of the affairs of the association,  
59 and any provisions creating, defining, limiting and/or regu-  
60 lating the powers of the association, the directors and the stock-  
61 holders, or any class of the stockholders or, in the case of an  
62 association which is to have no capital stock, of the members  
63 of such association: *Provided*, That such provisions are not  
64 contrary to the laws of the state.

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Sec. 8. Each association incorporated under this article,  
2 must, within thirty days after its incorporation, adopt for its  
3 government and management a code of by-laws, not inconsistent

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4 with the powers granted by this article. A majority vote of  
5 the members or stockholders, or their written assent, is neces-  
6 sary to adopt such by-laws. Each association, under its by-  
7 laws, may provide for any or all of the following matters:

8 (a) The time, place and manner of calling and conducting  
9 its meetings;

10 (b) The number of stockholders or members constituting a  
11 quorum;


12 (c) The right of members or stockholders to vote by proxy  
13 or by mail or both; and the conditions, manner, form, and  
14 effect of such votes;

15 (d) The number of directors constituting a quorum; and,  
16 if authority therefor is given in the articles of incorporation,  
17 the total number of directors;

18 (e) The qualifications, compensation, duties and term of of-  
19 fice of directors and officers; time of their election and the mode  
20 and manner of giving notice thereof;

21 (f) Penalties for violation of the by-laws;

22 (g) The amount of entrance, organization and membership  
23 fees, if any; the manner and method of collecting the same;  
24 and the purposes for which they may be used;

  
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25 (h) The amount which each member or stockholder shall be  
26 required to pay annually or from time to time, if at all, to carry  
27 on the business of the association; the charge, if any, to be paid  
28 by each member or stockholder for services rendered by the  
29 association to him and the time of payment and the manner of  
30 collection; and the marketing contract between the association  
31 and its members or stockholders which every member or stock-  
32 holder may be required to sign;

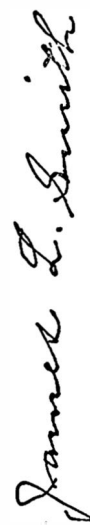
33 (i) The number and qualifications of members or stock-  
34 holders of the association and the conditions precedent to mem-  
35 bership or ownership of common stock; the method, time and  
36 manner of permitting members to withdraw or the holders of  
37 common stock to transfer their stock; the manner of assign-  
38 ment and transfer of the interest of members and of the shares  
39 of common stock; the conditions upon which and time when  
40 membership of any member shall cease; the automatic suspen-  
41 sion of the rights of a member when he ceases to be eligible to  
42 membership in the association; the mode, manner and effect of  
43 the expulsion of a member; the manner of determining the  
44 value of a member's interest, and provision for its purchase by  
45 the association, at its option, upon the death or withdrawal of a



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46 member or stockholder, or upon the expulsion of a member of  
 47 forfeiture of his membership, or, at the option of the associa-  
 48 tion, the purchase at a price fixed by conclusive appraisal by  
 49 the board of directors, or at the election of the board, such  
 50 property interests may be sold at public auction to the associa-  
 51 tion itself, or to any person eligible to membership in such as-  
 52 sociation and the proceeds of such sale paid over to the per-  
 53 sonal representative of such deceased member, or to the mem-  
 54 ber withdrawing or expelled, as the case may be.

Sec. 13. When a member of an association established with-  
 2 out capital stock has paid his membership fee in full, he shall  
 3 receive a certificate of membership. An association shall have  
 4 power to issue one or more classes of stock, or one or more series  
 5 of stock within any class thereof, any or all of which classes  
 6 may be of stock with par value or stock without par value, with  
 7 such voting powers, full or limited, or without voting powers  
 8 and in such series, and with such designations, preferences and  
 9 relative, participating, optional or other special rights, and  
 10 qualifications, limitations or restrictions thereof, as shall be  
 11 stated and expressed in the articles of incorporation, or in any  
 12 amendment thereto, or in the resolution or resolutions provid-



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13 ing for the issue of such stock adopted by the board of direc-  
14 tors pursuant to authority expressly vested in it by the pro-  
15 visions of the articles of incorporation or of any amendment  
16 thereto.

17 No association shall issue stock to a member until it has been  
18 fully paid for. The promissory notes of the members may be  
19 accepted by the association as full or partial payment. The  
20 association shall hold the stock as security for the payment of  
21 the note; but such retention as security shall not affect the  
22 member's right to vote.

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23 No member shall be liable for the debts of the association to  
24 an amount exceeding the sum remaining unpaid on his mem-  
25 bership fee or his subscription to the capital stock, including  
26 any unpaid balance on any promissory notes given in payment  
27 thereof.

28 An association in its by-laws, may limit the amount of com-  
29 mon stock which one member may own. No member or stock-  
30 holder shall be entitled to more than one vote, regardless of the  
31 number of shares of common stock owned by him.

32 Any association organized with stock under this article may  
33 issue preferred stock, with or without the right to vote. Such



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34 stock may be sold to any person, member or nonmember, and  
35 may be redeemable or retirable by the association on such terms  
36 and conditions as may be provided for by the articles of in-  
37 corporation and printed on the face of the certificate. The by-  
38 laws shall prohibit the transfer of the common stock of the as-  
39 sociation to persons, or organizations, not engaged in the pro-  
40 duction or cooperative marketing of the agricultural products  
41 handled by the association, and/or members of credit associa-  
42 tions financing such products; and such restrictions shall be  
43 printed upon every certificate of stock subject thereto.

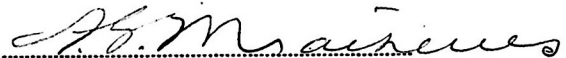
44 Other kinds and classes of stock may be issued in compliance  
45 with the provisions of the articles of incorporation, the terms  
46 of the by-laws, or special resolutions of the board of directors.  
47 The association may, at any time, as specified in the by-laws,  
48 except when the debts of the association exceed fifty per cent  
49 of the assets thereof, buy in or purchase its common stock at  
50 the book value thereof, as conclusively determined by the board  
51 of directors, and pay for it in cash within one year thereafter.



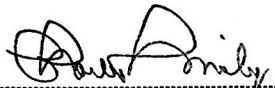
Speaker of the House of Delegates



Clerk of the House of Delegates.



President of the Senate.

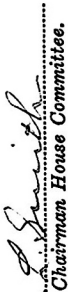


Clerk of the Senate.

The within is.....

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

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Filed in the office of the Secretary of State  
of West Virginia.

MAR 18 1933

Wm. S. O'BRIEN,  
Secretary of State

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Governor.