WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 161

(By Mr. Henshered)

PASSED March 7 1945

In Effect From Passage
ENROLLED

House Bill No. 161
(By Mr. Hansbarger, by request)

[Passed March 7, 1945: in effect from passage.]

AN ACT to amend and reenact sections eight, thirteen, eighteen, nineteen, twenty-one, twenty-two, twenty-three and twenty-five, article six, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, all relating to building and loan associations.

Be it enacted by the Legislature of West Virginia:

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

Section 8. Members; Shareholders; Dues; Minors as Shareholders.—(a) The members of a building and loan association shall be those to whom its shares have been
issued or transferred in accordance with the provisions of its constitution and by-laws, and those borrowers from the association to whom membership certificates have been issued. Holders of shares shall continue as members until their shares have been matured and paid, withdrawn, retired, transferred or forfeited. Borrowers holding membership certificates shall continue as members until their loans have been completely repaid to the association, or until the obligation to pay such loans is transferred to a third party and a new membership certificate is issued to such third party in accordance with the provisions of the association's constitution and by-laws. The payments made to any such association upon shares issued by it shall be called dues. They shall be paid in such sums and at such times as are provided by the by-laws until the shares reach their matured value, are withdrawn, retired, or forfeited.

(b) Any building and loan or federal savings and loan association may issue shares, share accounts or accounts to minors above the age of fourteen, each in their own right, and such parties shall be subject to the same duties
and liabilities as other shareholders. Any receipt, release, acquittance, or discharge given such association by a minor above the age of fourteen, who holds shares, share accounts or accounts, shall be a valid and sufficient receipt, release, acquittance, or discharge of any such association and shall be binding upon such minor to the same extent as if it were given by any other shareholder.

Minors under fourteen years of age may hold shares in any such association by a trustee or guardian.

(c) Any building and loan or federal savings and loan association may issue shares, share accounts or accounts in the names of two or more persons payable to either, or payable to the survivor, in which event either of said named persons shall have power to act in all matters related to such shares, share accounts or accounts, including the right to collect dividends and to withdraw from such association, whether the other person or persons named in such shares, share accounts or accounts be living or not. The receipt or acquittance signed by any such person, to whom any payment or delivery of rights is made, shall be a valid and sufficient release and dis-
charge of any such association for the payment or delivery so made.

(d) Any building and loan or federal savings and loan association may issue shares, share accounts or accounts in the name of any administrator, executor, guardian, trustee, or other fiduciary, in trust for a named beneficiary or beneficiaries. Any such fiduciary shall have all the rights and privileges of membership, except the right to hold office. The payment or delivery of rights by any such association to any such fiduciary, or a receipt, release, acquittance, or discharge signed by any such fiduciary, to whom any such payment, or any such delivery of rights is made, shall be a valid and sufficient release and discharge of any such association for the payment or delivery so made. Whenever a person holding shares, share accounts or accounts in a fiduciary capacity dies and no written notice of the revocation or termination of the trust relationship shall have been given to any such association, the withdrawal value of such shares, share accounts, or accounts, and dividends thereon, or other rights relating thereto, may, at the option of the association, be
paid or delivered, in whole or in part, to the beneficiary
or beneficiaries of such trust. The payment or delivery of
rights to any such beneficiary or beneficiaries, or a re-
ceipt, release, acquittance, or discharge signed by any
such beneficiary or beneficiaries, to whom any such pay-
ment, or any such delivery of rights is made, shall be a
valid and sufficient release and discharge of any such
association for the payment or delivery so made.

Sec. 13. Cancellation of Shares; Payment to Withdrawing Shareholder; Dividends.—The dues and dividends
upon free shares of any such association may be with-
drawn and the shares cancelled after sixty days' written
notice of such intention filed with its secretary at the
place of business of the association, but the board of
directors may waive such notice: Provided, That the
constitution and by-laws of the association may provide
for the issuance of classes of full paid shares of stock
which may not be withdrawn. The withdrawing share-
holder shall be paid such part of the withdrawal value
of his shares as may be determined by the board of direc-
tors, less fines and other obligations, and remain a share-
holder until full payment to him be made: Provided, That not more than one-half of the net funds received by the association in any one month shall be applicable to the payment of withdrawing shareholders and matured shares as hereinbefore provided unless otherwise ordered by the board of directors. A withdrawing member holding shares having a withdrawal value, not paid within sixty days, shall be entitled to dividends earned and declared, beginning at the expiration of said sixty days.

Sec. 18. Board of Directors, Number, Qualification and Residence; Meetings of Members and Voting Rights Thereat; Election of Officers and Employees by Directors; Duties, Terms, Etc., of Officers Determined by Bylaws; Compensation and Retirement of Officers and Employees.

(a) The corporate powers of any building and loan association shall be exercised by a board of directors of not fewer than five in number, all of whom shall be bona fide shareholders in such association, and a majority of whom shall be resident citizens. The officers shall consist of a president, one or more vice-presidents, a secretary, a treasurer, and such other officers as the by-laws
shall provide, to be elected at the first meeting of the directors following the annual meeting of the members. The president and vice-presidents must be directors, but the other officers and employees may or may not be directors. The duties of the officers, their terms of office, the time and manner of their election, the manner of filling vacancies, the time of holding periodical meetings of the directors and members, the manner of calling special meetings, the qualifications of electors, and the manner of voting, shall be determined by the constitution and by-laws. The members who shall be entitled to vote at any meeting of the members shall be those holding shares and borrowers to whom membership certificates were issued. A borrowing member to whom a membership certificate has been issued shall be permitted to cast one vote by reason thereof. A shareholder shall be entitled to cast one vote for each share held.

(b) Unless the compensation of the officers, directors, employees and committees shall be provided for in the by-laws, the directors shall fix and determine the same. In the discretion of a majority of all its directors, an
association may also establish retirement, death and dis-
ability benefits for such officers and employees who
regularly serve it on a fixed compensation basis, and to
that end, an association may become a party to any
agreement, trust, fund, or plan approved by the com-
missioner of banking which will provide any or all of
these benefits, and may make such contributions, out of
the earnings of the association, as may be required there-
by.

Sec. 19. How Funds of Association May Be Invested.—
Subject to the provisions of this article and its bylaws,
any building and loan association may invest the funds
received by it as follows:
First: In loans to its shareholders secured by a bond
or other obligation and mortgage or deed of trust on real
close of the association of shares having a matured or
par value at least equal to the amount of such loans, or
may be written on a direct reduction basis. A direct re-
duction loan shall mean a loan repayable in consecutive
monthly installments, equal or unequal, beginning not
later than thirty days after the date of the advance of the loan, sufficient to retire the debt, interest and principal within twenty years. The direct reduction borrower shall be given a membership certificate evidencing his rights in the association, but shall not participate in profits or losses: Provided, however, That no building and loan association shall lend upon any one piece of real estate more than ten per cent of its paid in capital stock, contingent or reserve funds, and undivided profits. Personal property may be accepted as additional security where the primary and principal security is a mortgage or deed of trust on real estate.

Second: In loans to shareholders upon their obligation secured by the transfer and pledge to the association of shares not previously transferred or pledged to it, the withdrawal or par value of which shall at least equal the amount of such loan.

Any such bonds or obligations, mortgages, or deeds of trust taken by any such association from its shareholders shall be deemed conditioned upon the performance of the provisions of this article and the by-laws of the associa-
tion relating to the payment of loans, premium, interest, dues, fees, and fines, although the same may not be fully expressed therein.

Third: In real property as follows: (a) A lot of land whereon there is or may be erected a building or buildings suitable for the convenient transaction of its business, from portions of which, not required for its own use, a revenue may be derived: Provided, That no building and loan association shall so invest more than ten per cent of its assets; (b) Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business; (c) Such as it shall purchase at sales under judgments, decrees, or mortgages or deeds of trust held by it: Provided, That any real estate acquired by any building and loan association under classes (b) and (c) shall be disposed of by the association at the earliest practicable date; but the officers thereof shall have a reasonable discretion in the matter of the time to dispose of such property in order to save the association from unnecessary losses.

If at any time it has funds in excess of the amount
needed for loans to its members, and the payment of matured shares and withdrawals, such funds may be invested:

(a) In loans to other domestic building and loan associations;

(b) In bonds or interest bearing obligations of the United States, or the District of Columbia, or of the state of West Virginia, or of any county, district, school district, or other political subdivision in the state of West Virginia, or of any incorporated city or village in the state of West Virginia; and in such other securities as now are or hereafter may be accepted by the United States to secure government deposits in national banks, or approved by the state commissioner of banking.

Sec. 21. Conditions on Which Associations May Take Mortgage or Deed of Trust.—No building and loan association shall:

First: Take a mortgage or deed of trust upon real estate unless a written application is first made for the loan described in such mortgage or deed of trust, showing the date, name of applicant, amount of loan desired,
8 description of the real estate offered, and other informa-
9 tion necessary, and unless a written report thereon shall
10 have been made by at least two members of the appraisal
11 committee, signed by them, stating that they have ex-
12 amined the real estate described in such application and
13 that in their judgment it affords adequate security for
14 such loan. Such report shall show separately the value
15 of the land and the value of the improvements and of the
16 building or buildings erected thereon. The application
17 and the report shall be filed and preserved with all the
18 other papers relating to the loan.
19 Second: Take a mortgage or deed of trust upon im-
20 proved real estate if the amount secured by such mort-
21 gage or deed of trust, plus any prior liens, exceeds seventy-
22 five per centum of the appraised value thereof as shown
23 by such report, unless said excess be secured by a pledge
24 of free stock or notes of the association, or unless said
25 excess is insured or guaranteed by the United States or
26 any instrumentality thereof, or there is a commitment
27 to so insure or guarantee. No loan shall be made on the
28 security of vacant real estate if the amount so secured,
plus any prior liens, exceeds fifty per centum of the appraised value thereof as shown by such report.

Third: Take a mortgage or deed of trust upon real estate unless the title to such real estate is approved by the attorney of the association or some other competent authority on titles.

Sec. 22. Repayment of Loans by Members.—Any loan made by a building and loan association to a member may be repaid at any time: Provided, That the member shall pay the principal due thereon, the premium earned, and the interest, fines, and other charges accrued at the date of such repayment, and all sums advanced by the association for taxes, assessments, insurance premiums, repairs, or other purposes, with interest thereon, less the withdrawal value of any shares transferred as security therefore. Any association may provide in its by-laws that any borrowing member may pay upon any loan secured by shares a sum equal to the matured value of one or more of the shares transferred and pledged as security therefore upon the same proportionate terms as are provided in this section for payment in full and have such share
or shares cancelled. A direct reduction loan may be re-
paid in full or in part at any time.

Sec. 23. Default by Borrower; Maturing Indebtedness;
Collection of Loan.—Whenever any borrower on a direct
reduction basis shall fail or neglect to pay his contracted
monthly installments, or whenever any borrower on a
loan secured by shares shall fail or neglect to pay dues,
interest, premium, or fines, as provided by the by-laws or
the terms of his obligation, bond, mortgage, or deed of
trust or other evidence of indebtedness, for a period of
three months, or shall be in default in the performance
of any of the obligations imposed upon him thereby, then
the whole of said indebtedness shall become and be im-
mediately due and payable at the option of the association.
Any shares pledged as security for such loan may be de-
clared cancelled and their withdrawal value at the time
of said declaration applied as a payment on the loan, and
such shares shall revert to the association. The balance
or the amount due, with interest and premium, fines, and
other charges thereon, may be enforced by proceedings
on the defaulting borrower’s security according to law.
Sec. 25. Contingent Reserve, Amount, Purpose; Undivided Profits Account.—Every building and loan association shall set aside out of its earnings a contingent reserve. Until such time as the contingent reserve equals ten per cent of the assets of the association, the association shall, at each dividend date, transfer to such contingent reserve a credit equivalent to at least five per cent of the net earnings of the association for the period since the previous dividend date. Such contingent reserve shall be used only for the purpose of making good to the association losses suffered on loans and expenses incurred in the collection of loans which may not be charged against or collected from the borrower. Every building and loan association may also carry an undivided profit account as provided in the constitution and by-laws of the association. The contingent reserve and the undivided profit account shall be invested as other funds of the association.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

Abe Byrd, Jr.
Chairman House Committee

Originated in the House.

Takes effect from passage.

Horace Morgan
Clerk of the Senate

Philip
Clerk of the House of Delegates

Arnold M. Vickery
President of the Senate

John E. Amos
Speaker House of Delegates

The within approved this the 14th day of March, 1945.

Governor.

Filed in the office of the Secretary of State of West Virginia MAR 15 1945

Wm. S. O'Brien,
Secretary of State