

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 161

(By Mr. Hansberger)



PASSED March 7 1945

In Effect From Passage

161

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**House Bill No. 161**

(By MR. HANSBARGER, by request)

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

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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*  
2 *Shareholders.*—(a) The members of a building and loan  
3 association shall be those to whom its shares have been

4 issued or transferred in accordance with the provisions  
5 of its constitution and by-laws, and those borrowers from  
6 the association to whom membership certificates have  
7 been issued. Holders of shares shall continue as mem-  
8 bers until their shares have been matured and paid,  
9 withdrawn, retired, transferred or forfeited. Borrowers  
10 holding membership certificates shall continue as mem-  
11 bers until their loans have been completely repaid to  
12 the association, or until the obligation to pay such loans  
13 is transferred to a third party and a new membership  
14 certificate is issued to such third party in accordance  
15 with the provisions of the association's constitution and  
16 by-laws. The payments made to any such association  
17 upon shares issued by it shall be called dues. They shall  
18 be paid in such sums and at such times as are provided  
19 by the by-laws until the shares reach their matured  
20 value, are withdrawn, retired, or forfeited.

21 (b) Any building and loan or federal savings and loan  
22 association may issue shares, share accounts or accounts  
23 to minors above the age of fourteen, each in their own  
24 right, and such parties shall be subject to the same duties

25 and liabilities as other shareholders. Any receipt, re-  
26 lease, acquittance, or discharge given such association by  
27 a minor above the age of fourteen, who holds shares,  
28 share accounts or accounts, shall be a valid and sufficient  
29 receipt, release, acquittance, or discharge of any such  
30 association and shall be binding upon such minor to the  
31 same extent as if it were given by any other shareholder.  
32 Minors under fourteen years of age may hold shares in  
33 any such association by a trustee or guardian.

34 (c) Any building and loan or federal savings and loan  
35 association may issue shares, share accounts or accounts  
36 in the names of two or more persons payable to either,  
37 or payable to the survivor, in which event either of said  
38 named persons shall have power to act in all matters re-  
39 lated to such shares, share accounts or accounts, includ-  
40 ing the right to collect dividends and to withdraw from  
41 such association, whether the other person or persons  
42 named in such shares, share accounts or accounts be  
43 living or not. The receipt or acquittance signed by any  
44 such person, to whom any payment or delivery of rights  
45 is made, shall be a valid and sufficient release and dis-

46 charge of any such association for the payment or de-  
47 livery so made.

48 (d) Any building and loan or federal savings and loan  
49 association may issue shares, share accounts or accounts  
50 in the name of any administrator, executor, guardian,  
51 trustee, or other fiduciary, in trust for a named beneficiary  
52 or beneficiaries. Any such fiduciary shall have all the  
53 rights and privileges of membership, except the right to  
54 hold office. The payment or delivery of rights by any  
55 such association to any such fiduciary, or a receipt, release,  
56 acquittance, or discharge signed by any such fiduciary, to  
57 whom any such payment, or any such delivery of rights  
58 is made, shall be a valid and sufficient release and dis-  
59 charge of any such association for the payment or delivery  
60 so made. Whenever a person holding shares, share ac-  
61 counts or accounts in a fiduciary capacity dies and no  
62 written notice of the revocation or termination of the  
63 trust relationship shall have been given to any such asso-  
64 ciation, the withdrawal value of such shares, share ac-  
65 counts, or accounts, and dividends thereon, or other rights  
66 relating thereto, may, at the option of the association, be

67 paid or delivered, in whole or in part, to the beneficiary  
68 or beneficiaries of such trust. The payment or delivery of  
69 rights to any such beneficiary or beneficiaries, or a re-  
70 ceipt, release, acquittance, or discharge signed by any  
71 such beneficiary or beneficiaries, to whom any such pay-  
72 ment, or any such delivery of rights is made, shall be a  
73 valid and sufficient release and discharge of any such  
74 association for the payment or delivery so made.

Sec. 13. *Cancellation of Shares; Payment to Withdraw-*  
2 *ing Shareholder; Dividends.*—The dues and dividends  
3 upon free shares of any such association may be with-  
4 drawn and the shares cancelled after sixty days' written  
5 notice of such intention filed with its secretary at the  
6 place of business of the association, but the board of  
7 directors may waive such notice: *Provided*, That the  
8 constitution and by-laws of the association may provide  
9 for the issuance of classes of full paid shares of stock  
10 which may not be withdrawn. The withdrawing share-  
11 holder shall be paid such part of the withdrawal value  
12 of his shares as may be determined by the board of direc-  
13 tors, less fines and other obligations, and remain a share-

14 holder until full payment to him be made: *Provided*, That  
15 not more than one-half of the net funds received by the  
16 association in any one month shall be applicable to the  
17 payment of withdrawing shareholders and matured shares  
18 as hereinbefore provided unless otherwise ordered by  
19 the board of directors. A withdrawing member holding  
20 shares having a withdrawal value, not paid within sixty  
21 days, shall be entitled to dividends earned and declared,  
22 beginning at the expiration of said sixty days.

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

6 —(a) The corporate powers of any building and loan  
7 association shall be exercised by a board of directors  
8 of not fewer than five in number, all of whom shall be  
9 bona fide shareholders in such association, and a majority  
10 of whom shall be resident citizens. The officers shall con-  
11 sist of a president, one or more vice-presidents, a secre-  
12 tary, a treasurer, and such other officers as the by-laws

13 shall provide, to be elected at the first meeting of the  
14 directors following the annual meeting of the members.  
15 The president and vice-presidents must be directors, but  
16 the other officers and employees may or may not be  
17 directors. The duties of the officers, their terms of office,  
18 the time and manner of their election, the manner of  
19 filling vacancies, the time of holding periodical meetings  
20 of the directors and members, the manner of calling  
21 special meetings, the qualifications of electors, and the  
22 manner of voting, shall be determined by the constitution  
23 and by-laws. The members who shall be entitled to vote  
24 at any meeting of the members shall be those holding  
25 shares and borrowers to whom membership certificates  
26 were issued. A borrowing member to whom a member-  
27 ship certificate has been issued shall be permitted to  
28 cast one vote by reason thereof. A shareholder shall  
29 be entitled to cast one vote for each share held.

30 (b) Unless the compensation of the officers, directors,  
31 employees and committees shall be provided for in the  
32 by-laws, the directors shall fix and determine the same.  
33 In the discretion of a majority of all its directors, an



34 association may also establish retirement, death and dis-  
35 ability benefits for such officers and employees who  
36 regularly serve it on a fixed compensation basis, and to  
37 that end, an association may become a party to any  
38 agreement, trust, fund, or plan approved by the com-  
39 missioner of banking which will provide any or all of  
40 these benefits, and may make such contributions, out of  
41 the earnings of the association, as may be required there-  
42 by.

Sec. 19. *How Funds of Association May Be Invested.*—

2 Subject to the provisions of this article and its bylaws,  
3 any building and loan association may invest the funds  
4 received by it as follows:

5 First: In loans to its shareholders secured by a bond  
6 or other obligation and mortgage or deed of trust on real  
7 estate. Such loans may be secured by a transfer and  
8 pledge to the association of shares having a matured or  
9 par value at least equal to the amount of such loans, or  
10 may be written on a direct reduction basis. A direct re-  
11 duction loan shall mean a loan repayable in consecutive  
12 monthly installments, equal or unequal, beginning not

13 later than thirty days after the date of the advance of the  
14 loan, sufficient to retire the debt, interest and principal  
15 within twenty years. The direct reduction borrower  
16 shall be given a membership certificate evidencing his  
17 rights in the association, but shall not participate in  
18 profits or losses: *Provided, however,* That no building  
19 and loan association shall lend upon any one piece of real  
20 estate more than ten per cent of its paid in capital stock,  
21 contingent or reserve funds, and undivided profits. Per-  
22 sonal property may be accepted as additional security  
23 where the primary and principal security is a mortgage  
24 or deed of trust on real estate.

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

30     Any such bonds or obligations, mortgages, or deeds of  
31 trust taken by any such association from its shareholders  
32 shall be deemed conditioned upon the performance of the  
33 provisions of this article and the by-laws of the associa-

34 tion relating to the payment of loans, premium, interest,  
35 dues, fees, and fines, although the same may not be fully  
36 expressed therein.

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

54 If at any time it has funds in excess of the amount

55 needed for loans to its members, and the payment of  
56 matured shares and withdrawals, such funds may be in-  
57 vested:

58 (a) In loans to other domestic building and loan asso-  
59 ciations;

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

Sec. 21. *Conditions on Which Associations May Take*

2 *Mortgage or Deed of Trust.*—No building and loan asso-  
3 ciation shall:

4 First: Take a mortgage or deed of trust upon real  
5 estate unless a written application is first made for the  
6 loan described in such mortgage or deed of trust, show-  
7 ing 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,

29 plus any prior liens, exceeds fifty per centum of the  
30 appraised value thereof as shown by such report.

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

Sec. 22. *Repayment of Loans by Members.*—Any loan  
2 made by a building and loan association to a member may  
3 be repaid at any time: *Provided*, That the member shall  
4 pay the principal due thereon, the premium earned, and  
5 the interest, fines, and other charges accrued at the date of  
6 such repayment, and all sums advanced by the associa-  
7 tion for taxes, assessments, insurance premiums, repairs,  
8 or other purposes, with interest thereon, less the with-  
9 drawal value of any shares transferred as security there-  
10 for. Any association may provide in its by-laws that any  
11 borrowing member may pay upon any loan secured by  
12 shares a sum equal to the matured value of one or more  
13 of the shares transferred and pledged as security there-  
14 for upon the same proportionate terms as are provided  
15 in this section for payment in full and have such share

16 or shares cancelled. A direct reduction loan may be re-  
17 paid in full or in part at any time.

Sec. 23. *Default by Borrower; Maturing Indebtedness;*

2 *Collection of Loan.*—Whenever any borrower on a direct  
3 reduction basis shall fail or neglect to pay his contracted  
4 monthly installments, or whenever any borrower on a  
5 loan secured by shares shall fail or neglect to pay dues,  
6 interest, premium, or fines, as provided by the by-laws or  
7 the terms of his obligation, bond, mortgage, or deed of  
8 trust or other evidence of indebtedness, for a period of  
9 three months, or shall be in default in the performance  
10 of any of the obligations imposed upon him thereby, then  
11 the whole of said indebtedness shall become and be im-  
12 mediately due and payable at the option of the association.  
13 Any shares pledged as security for such loan may be de-  
14 clared cancelled and their withdrawal value at the time  
15 of said declaration applied as a payment on the loan, and  
16 such shares shall revert to the association. The balance  
17 or the amount due, with interest and premium, fines, and  
18 other charges thereon, may be enforced by proceedings  
19 on the defaulting borrower's security according to law.

Sec. 25. *Contingent Reserve, Amount, Purpose; Undi-*  
2 *vided Profits Account.*—Every building and loan associa-  
3 tion shall set aside out of its earnings a contingent re-  
4 serve. Until such time as the contingent reserve equals  
5 ten per cent of the assets of the association, the associa-  
6 tion shall, at each dividend date, transfer to such contin-  
7 gent reserve a credit equivalent to at least five per cent  
8 of the net earnings of the association for the period since  
9 the previous dividend date. Such contingent reserve  
10 shall be used only for the purpose of making good to the  
11 association losses suffered on loans and expenses in-  
12 curred in the collection of loans which may not be charged  
13 against or collected from the borrower. Every building  
14 and loan association may also carry an undivided profit  
15 account as provided in the constitution and by-laws of  
16 the association. The contingent reserve and the undivided  
17 profit account shall be invested as other funds of the  
18 association.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C Morris  
Chairman Senate Committee

J. Abe Gandy, Jr.  
Chairman House Committee

Originated in the House

Takes effect from passage.

Thomas H. Hays  
Clerk of the Senate

W. H. Rouse  
Clerk of the House of Delegates

Arnold M. Vickers  
President of the Senate

John E. Arnos  
Speaker House of Delegates

The within Approved this the 14<sup>th</sup>  
day of March, 1945.

Robert Modawo  
Governor.



Filed in the office of the Secretary of State  
of West Virginia MAR 15 1945  
Wm. S. O'BRIEN,  
Secretary of State