

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

Enrolled Com. Sub. for

SENATE BILL No. 172

(By Mr. _____)



PASSED March 8 1947

In Effect from Passage



172

ENROLLED
COMMITTEE SUBSTITUTE FOR
Senate Bill No. 172

[Passed March 8, 1947; in effect from passage.]

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new article to be designated article nine-a, relating to voluntary associations and business trusts; prescribing the form of execution and acknowledgment of deeds and other writings executed by such associations and trusts; authorizing the adoption and use of trade-names and the recordation of declarations of trust or agreements; validating deeds and other writings heretofore executed by such associations and trusts and providing the method by which such associations and trusts may become authorized and qualified to do business in this state.

Be it enacted by the Legislature of West Virginia:

That chapter forty-seven of the code of West Virginia, one

thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new article, to be designated article nine-a, to read as follows:

Article 9-A. Voluntary Associations and Business Trusts.

Section 1. *Execution of Deeds and Other Writings.*—

2 Any persons who are now or who have heretofore been
3 voluntarily associated together for the transaction or
4 doing of business under and pursuant to the terms and
5 provisions of a declaration of trust or articles or agree-
6 ment of association, commonly designated as a Massa-
7 chusetts trust or business trust, or any other lawful
8 voluntary association by whatever name known, may
9 purchase, acquire, hold, deal in, sell, lease, convey, ex-
10 change, pledge, mortgage and encumber any real estate
11 or personal property or interest therein within this state,
12 and may execute all deeds, leases, contracts, or other
13 instruments in writing with respect to real estate or per-
14 sonal property or interest therein as may be necessary
15 or required, either in the name or names of the trustees
16 for the time being designated in such declaration, articles
17 or agreement, or their successors, or in the name or names

18 of another person or persons designated in such decla-
19 ration, articles or agreement, or by a descriptive, assumed
20 or trade-name, when signed by a duly authorized officer
21 or officers thereof, all as may be provided for and stated
22 in such declaration, articles or agreement: *Provided, how-*
23 *ever,* That such association or trust shall have qualified
24 to do business in West Virginia, as hereinafter provided
25 for in section five of this article.

Sec. 2. *Adoption and Use of Trade-Names; Use of Seal.*

2 —Any such association or trust may adopt and use a
3 descriptive, assumed or trade-name, subject to all ap-
4 plicable laws of the state relating to registration thereof
5 and may adopt and use a common seal.

Sec. 3. *Recordation of Declaration of Trust or Agree-*

2 *ment of Association; Acknowledgment of Deeds and*
3 *Other Writings.*—Every such association or trust shall
4 cause a copy of any such declaration, articles or agree-
5 ment, duly authenticated, to be filed and recorded in the
6 office of the clerk of the county court of the county in
7 which any such association, trust or trustees shall pur-
8 chase, acquire, hold, deal in, sell, lease, convey, exchange,

9 pledge, mortgage and encumber or otherwise dispose of
10 or execute any instruments with respect to real estate
11 or personal property or interest therein and such dec-
12 laration, articles or agreements providing for the use of
13 such descriptive, assumed or trade-name shall authorize
14 and designate or contain provisions for the authorization
15 or designation of persons by whom deeds, leases, con-
16 tracts and other instruments in writing shall be executed.
17 All such deeds, leases, contracts and other instruments
18 in writing shall be deemed to be properly acknowledged
19 for the purposes of recordation if acknowledged in the
20 form provided by statute for acknowledgments by cor-
21 porations, or, if executed by trustees or other persons,
22 then in the form provided by statute therefor.

Sec. 4. *Validation of Deeds and Other Writings Here-*
2 *tofore Executed.*—All deeds, leases, contracts and other
3 instruments in writing with respect to real estate or per-
4 sonal property or interest therein within this state here-
5 tofore made and delivered by any such association, trust
6 or trustees, which comply with the requirements of this

7 article shall be and each of them hereby is expressly
8 validated.

Sec. 5. *Authorization and Qualification to do Busi-*
2 *ness.*—Any such association or trust shall file with the
3 secretary of state a copy of its declaration, articles or
4 agreement and a writing, duly executed, agreeing to be
5 governed by the laws of this state with respect to cor-
6 porations, including license fees and all other taxes. The
7 secretary of state shall thereupon issue to such associa-
8 tion or trust a certificate showing such association or
9 trust to be duly authorized and qualified to do business
10 in this state, which certificate, together with a copy of
11 its declaration, articles or agreement shall be recorded
12 in the office of the clerk of the county court of the county,
13 or counties, in which its business is to be conducted.
14 Such association or trust shall thereupon be and become
15 subject to all of the statutes of this state relating to cor-
16 porations generally.

Sec. 6. *Repeal of Conflicting Acts.*—All acts or parts
2 of acts in conflict with this article are hereby repealed.

Sec. 7. *Severability.*—The provisions of this article

2 shall be construed to be severable and if any are held
3 unconstitutional or otherwise invalid, such invalidity or
4 unconstitutionality shall not affect the operation of the
5 remaining provisions.

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

Forest L. McMan

Chairman Senate Committee

R. G. Matthews

Chairman House Committee

Originated in the

Senate

Takes effect

from

passage.

John M. Meyer
Clerk of the Senate

J. Ashp

Clerk of the House of Delegates

Arnold M. Vickers

President of the Senate

John E. Amos
Speaker House of Delegates

The within

Approved

this the

13

day of

March

, 1947.

Casey Meadows

Governor.



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

MAR 13 1947

WM. S. O'BRIEN,
SECRETARY OF STATE