

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



# ENROLLED

HOUSE BILL No. 175

(By Mr. Maxwell E. Hubbard)



PASSED March 7 1953

In Effect ninety days from Passage



175

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House Bill No. 175

(By MR. MAXWELL and MR. HUBBARD)

[Passed March 7, 1953; in effect ninety days from passage.]

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section four-a, relating to nonstock corporations.

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

That article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding a new section, to be designated section four-a, to read as follows:

Section 4-a. *Nonstock Corporations; Policy and Purpose.*—Nonstock corporations have no capital stock, no shares of stock, and no stockholders, and various provisions of this article are not appropriate for nonstock corporations where the interests of the members are

6 equal and not determined by the number of shares  
7 owned, and where numerous persons may be technically  
8 members but have no real interest in the management  
9 of the corporation, and this article does not make pro-  
10 vision for certain other situations peculiar to nonstock  
11 corporations, and for these and other reasons the follow-  
12 ing provisions are made, relating only to nonstock cor-  
13 porations:

14 (1) The charter of any nonstock corporation may  
15 provide: (i) for the division of its members into classes  
16 with varying qualifications and requirements and with  
17 varying voting and other rights and privileges; and (ii)  
18 the number or proportion of its members or of a specified  
19 class or classes of its members, whose presence in person  
20 or by proxy shall be necessary to constitute a quorum at  
21 any meeting of members of the corporation; and (iii)  
22 that any specified action may be taken or authorized  
23 upon the concurrence of a specified number or propor-  
24 tion of the votes of all members or of all of a specified  
25 class or classes of members. Such provisions may be  
26 different from what is otherwise required under this

27 article; and any action taken or authorized in accordance  
28 with any such charter provision shall be valid and effec-  
29 tive.

30 (2) In any case in which the charter of any nonstock  
31 corporation does not provide for members thereof as  
32 such, and such corporation has in fact no members other  
33 than the members of its governing body (by whatever  
34 names they or it may be called), the members for the  
35 time being of its governing body shall, for the purposes  
36 of any statutory provision or rule of law relating to  
37 members of a nonstock corporation, be considered to be  
38 the members of such corporation, as well as members  
39 of such governing body, and may meet as members of  
40 such corporation and exercise all of the rights and powers  
41 of members thereof.

42 (3) In any case in which the charter of any nonstock  
43 corporation provides for a definite minimum number of  
44 members, whenever the membership is reduced below the  
45 prescribed number the corporation shall not on that  
46 account be dissolved, but the vacancies shall be filled  
47 either in the manner provided in its charter or by the

48 surviving or continuing members, so long as the number  
49 thereof is one or more.

50 (4) A member of a nonstock corporation who is en-  
51 titled to vote on any matter shall have but one vote,  
52 and shall not be entitled to cumulate his vote in the  
53 election of members of its governing body.

54 (5) In any case in which there shall be doubt concern-  
55 ing the number and identity of the persons, firms and  
56 corporations entitled to membership or to membership  
57 in a class or classes of members, in a nonstock corpora-  
58 tion, and the determination of those so entitled is deemed  
59 necessary by its governing body, the circuit court of the  
60 county in which the principal office of a nonstock corpora-  
61 tion is located, or the judge thereof in vacation, shall  
62 have jurisdiction in equity, on application by the corpora-  
63 tion by petition in a summary way, notice of the hearing  
64 on the application having been given as directed by the  
65 court or judge, to determine who are at that time members  
66 of the corporation or of such class or classes of members,  
67 and to make such orders and decrees as may seem reason-  
68 able and proper.

69     (6) If a meeting of the members of any nonstock  
70 corporation shall be duly called for any lawful purpose  
71 and at such meeting there is not present in person or by  
72 proxy the number of members entitled to vote required  
73 by the charter (or, in the absence of an applicable charter  
74 provision, by the provisions of this article) to constitute  
75 a quorum or to take the proposed action, then, if the  
76 notice of such meeting states that the procedure author-  
77 ized by this subsection may be invoked, the members  
78 entitled to vote who are present at such meeting in per-  
79 son or by proxy may by majority vote call a further  
80 meeting of the members for the same purpose. A notice  
81 of the time, place and purpose of such further meeting  
82 shall be given by publication once a week for two weeks  
83 in a newspaper published and of general circulation in  
84 the county of the principal office of the corporation.  
85 At such further meeting the members entitled to vote who  
86 are present in person or by proxy shall constitute a  
87 quorum, and by majority vote may take the proposed  
88 action and may also take any other action which might  
89 have been taken at the original meeting if a sufficient

90 number of members entitled to vote had been present; and  
91 the notice of such further meeting shall so state.

92 . (7) The charter of a nonstock corporation may pro-  
93 vide for the disposition of its assets upon its dissolution.  
94 In any case in which a resolution to dissolve has been  
95 adopted by the members of a nonstock corporation en-  
96 titled to vote thereon, or in any case in which a nonstock  
97 corporation has been inactive for ten years except for  
98 the holding of assets, or in any case in which the purpose,  
99 for which a nonstock corporation has been formed, has  
100 been attained, then in any such case the circuit court  
101 of the county in which its principal office is located, or  
102 the judge thereof in vacation, shall have jurisdiction in  
103 equity, on the application by petition in a summary way  
104 of the corporation or of any member thereof or of the  
105 attorney general, notice of the hearing on the application  
106 having been given as directed by the court or judge, to  
107 determine the assets and liabilities of the corporation,  
108 to provide for the payment of the liabilities, to direct the  
109 disposition of the assets, to dissolve the corporation, and  
110 to make such orders and decrees as may seem reasonable

111 and proper. The court shall consider the purposes for  
112 which the corporation was formed, any charter provision  
113 for the disposition of its assets upon dissolution, and the  
114 circumstances which have occurred since its incorpora-  
115 tion. The clerk of such court shall promptly send to the  
116 secretary of state a certified copy of each order and decree  
117 made in such proceeding.

118 (8) Insofar as the provisions of this section are in-  
119 consistent with the provisions of any other law, the  
120 provisions of this section shall be controlling as to non-  
121 stock corporations. The provisions of this section are  
122 severable, and the unconstitutionality or invalidity of one  
123 portion shall not affect any other portion.



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

*H. M. Keuley*  
Chairman Senate Committee

*C. H. Amblin*  
Chairman House Committee

Originated in the House of Delegates

Takes effect *ninety days from* passage.

*Howard H. Hays*  
Clerk of the Senate

*Joseph*  
Clerk of the House of Delegates

*Reph. B. B. B.*  
President of the Senate

*W. E. Henry*  
Speaker House of Delegates

The within *approved* this the *16th*  
day of *march*, 1953.

*William C. Marland*  
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE  
OF VIRGINIA **MAR 16 1953**

**D. PITT O'BRIEN,**  
SECRETARY OF STATE