WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

HOUSE BILL No. 453

(By Mr. White and Mr. Keister)

PASSED March 8, 1963

In Effect July 1, 1963

Filed in Office of the Secretary of State of West Virginia 3-15-63
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections one, eighteen, nineteen, twenty, twenty-four, twenty-six and twenty-seven, article ten, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article and chapter by adding thereto nine new sections, designated sections twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six, all relating to the incorporation, organization and operation of a cooperative, non-profit credit union.

Be it enacted by the Legislature of West Virginia:

That sections one, eighteen, nineteen, twenty, twenty-four,
twenty-six, and twenty-seven, article ten, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article and chapter be further amended by adding thereto nine new sections, designated sections twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six, all to read as follows:

Section 1. Credit Unions, Definition and Purpose; Who May Form; Agreement; Bylaws, Charter, Approval by Commissioner of Banking, Filing, Certificate of Authority; Form of Incorporation and Bylaws Prescribed by Commissioner of Banking.—A credit union is hereby defined as a cooperative, nonprofit association, incorporated in accordance with the provisions of this article for the purpose of creating a source of credit at a fair and reasonable rate of interest, of encouraging habits of thrift among its members and of providing the opportunity for people to use and control their money for their mutual benefit. Any eight persons, residents of the state of West Virginia and having a common bond of occupation or association, may apply to the secretary of state for per-
mission to organize a credit union. A credit union shall be organized in the following manner:

(a) The applicants shall execute in duplicate an incorporation agreement by the terms of which they agree to be bound. The agreement shall state:

(1) The name of the proposed credit union which shall include the words “credit union” and which shall not be the same as that of any other existing credit union.

(2) The post office address of its principal office or place of business;

(3) The names and post office addresses of the incorporators, and the number of shares subscribed by each;

(4) The total number of shares of stock which the credit union shall have authority to issue and the par value of each share, which par value shall not exceed ten dollars.

(b) The applicants shall then prepare and adopt by-laws for the general government of the credit union consistent with the provisions of this article and execute
the same in duplicate. The by-laws shall specify:

(1) The date of the annual meeting, which shall be in January of each calendar year, requirements as to notice and manner of conducting such meeting;

(2) The number of directors, which shall be not less than five, all of whom must be shareholders and members of the credit union, their powers and duties; and the compensation and duties of all officers;

(3) The conditions and qualifications for membership;

(4) The number of members of the credit committee and of the supervisory committee, with their respective powers and duties;

(5) The conditions upon which shares may be issued, transferred and withdrawn;

(6) The charges, if any, to be made for failure to meet obligations punctually;

(7) The conditions upon which deposits may be received and withdrawn, and whether the credit union shall have the power to borrow;

(8) The manner in which the funds of the credit union shall be invested;
(9) The conditions upon which loans may be made and repaid;

(10) The method of receipting for money paid in on account of shares, deposits and loans;

(11) The manner in which the reserve fund shall be accumulated;

(12) The manner in which dividends shall be determined and paid out.

(c) The agreement and by-laws, both executed in duplicate, shall be forwarded to the secretary of state;

(d) The secretary of state, within thirty days after the receipt of such agreement, shall determine whether it conforms to the provisions of this article, and whether or not the organization of the credit union in question would benefit the organizers of it, and be consistent with the purposes of this article;

(e) Thereupon the secretary of state shall notify the applicants of his decision. If it is favorable, he shall issue a charter, attach the charter to the duplicate of the agreement and return the same, together with the duplicate of the bylaws to the applicants: Provided, That the sec-
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retary of state shall issue no charter to any credit union to do business in this state until such incorporation agreement and by-laws have been approved in writing by the commissioner of banking;

(f) The applicants shall thereupon file such charter in the office of the clerk of the county court of the county in which the principal office of the credit union is to be located, and such clerk shall record such charters, the usual fees to be charged for such recordation;

(g) When any credit union authorized by this article desires to begin business, it must notify the commissioner of banking, who shall at his earliest convenience make an examination of its affairs. Having satisfied himself that all the conditions precedent have in good faith been complied with, said commissioner shall then issue to such credit union, under his hand, and official seal, a certificate of authority reciting that such examination has been made and that the credit union is authorized to commence business which certificate shall be displayed in the business place of such credit union. But the commissioner may withhold from any credit union his certificate au-
thorizing the commencement of business whenever he has reason to suppose that the members have formed the same for any other than the legitimate objects contemplated in this article.

In order to simplify the organization of credit unions, the commissioner of banking shall cause to be prepared an approved form of incorporation agreement and form of by-laws consistent with this article, which may be used by credit union incorporators.

Sec. 18. Investment of Capital, Undivided Profits and Reserve Funds.—The capital deposits, undivided profits and reserve funds of the corporation may be invested in the following ways, and in such ways only:

(a) Loaned to members of the corporation in accordance with the provisions of this article;

(b) Deposited to the credit of the corporation in a banking institution incorporated under the laws of this state, or in national banks operating in this state;

(c) In obligations of the United States of America, or in securities fully guaranteed thereby as to both principal and interest or in shares or accounts of federal
savings and loan associations; and

(d) In any investment legal for banking institutions or trust funds in this jurisdiction.

Sec. 19. Security for Loans to Members; Application for Loan by Member of Credit Committee; Illegal to Loan to Non-Members.—As provided in section eighteen of this article, a credit union may loan to its members for such purposes and upon such security and terms as the by-laws shall provide and the credit committee shall approve; but security must be taken for any loan in excess of seven hundred fifty dollars. Endorsements of a note or assignment of shares in any credit union shall be deemed security within the meaning of this section.

A member who needs funds with which to purchase necessary supplies for growing crops may receive a loan in fixed monthly installments instead of in one sum.

If any member of the credit committee makes application to borrow money from a credit union or becomes surety for any other member whose application for a loan is under consideration, the supervisory committee shall appoint a substitute to act on the credit committee.
in the place of such member, during the consideration of
such application. All officers and members of any com-
mittee in any way knowingly permitting or participating
in making a loan of funds of a credit union to a non-
member thereof shall be guilty of a misdemeanor. The
credit union shall have the right to recover the amount
of any such illegal loan from the borrower or from any
officer or member of a committee who knowingly com-
mitted or participated in the making thereof, or from all
of them jointly.

A borrower may repay the whole or any part of his
loan any day on which the office of the corporation is
open for the transaction of business.

Sec. 20. Reserve Fund, of What Constituted; Increase
or Decrease.—All entrance fees, transfer fees and charges
shall, after the payment of organization expenses, be
known as reserve income and shall be added to the re-
serve fund of the corporation. At the close of each fiscal
year there shall be set apart to the reserve fund twenty
per cent of the net income of the corporation which has
accumulated during the year. But upon the recommen-
9 dation of the board of directors, the members at an annual
10 meeting may increase, and whenever such funds equal
11 twenty per cent of the capital, may decrease, the propor-
12 tion of profits which is required by this section to be set
13 apart to the reserve fund.
14 The reserve fund shall belong to the corporation and
15 shall be held to meet contingencies, and shall not be
16 distributed to the members, except upon dissolution of
17 the corporation.

Sec. 24. Dissolution.—(a) Voluntary—At a meeting
2 especially called to consider the matter, a majority of
3 the entire membership may vote to dissolve the credit
4 union, provided a copy of the notice was mailed to the
5 commissioner of banking at least ten days prior thereto.
6 Any member not present at such meeting may, within
7 the next twenty days vote in favor of dissolution by
8 signing a statement in form approved by the commis-
9 sioner of banking and such vote shall have the same
10 force and effect as if cast at such meeting. The credit
11 union, with the prior approval of the commissioner of
12 banking, shall thereupon immediately cease to do business
except for the purpose of liquidation, and the president and secretary shall, within five days following such meeting, notify the commissioner of banking of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses.

(b) Involuntary—If it shall appear that any credit union is bankrupt or insolvent, or that it has violated any of the provisions of this article, the commissioner of banking may, after holding a hearing or giving adequate opportunity for a hearing order such credit union to correct such condition and shall grant it not less than sixty days within which to comply, and failure to do so shall afford the commissioner of banking grounds for revocation of the certificate of approval and charter and for appointment of a receiver to apply to the appropriate court of the jurisdiction in which such credit union is located for the appointment of a receiver to close the affairs of such credit union.

(c) Liquidating Procedures—The credit union shall continue in existence for the purpose of discharging its
debts, collecting and distributing its assets, and doing all
acts required in order to wind up its business and may
sue and be sued for the purpose of enforcing such debts
and obligations until its affairs are fully adjusted and
wound up, for three years.

The board of directors shall, or in the case of involun-
tary dissolution, the receiver shall use the assets of the
credit union to pay; first, expenses incidental to liqui-
dation including any surety bond that may be required;
second, any liability due non-members; third, deposits
and savings club accounts, such as Christmas club,
vacation clubs and other such thrift organizations within
the membership. Assets then remaining, if any, shall be
distributed to the members proportionately to the shares
held by each member as of the date dissolution was voted
or ordered.

As soon as the board or the receiver determines that
all assets from which there is a reasonable expectancy
of realization have been liquidated and distributed as
set forth in this section, a certificate of dissolution shall be
executed on a form prescribed by the commissioner
of banking and file same with the proper recording
agency within the jurisdiction wherein the credit union
had its principal place of business, which shall, after re-
cording and indexing same, forward it to the commis-
sioner of banking, whereupon such credit union shall
be dissolved.

**Sec. 26. Share Reduction.**—Whenever the losses of any
credit union, resulting from a depreciation in value of its
loans or investments or otherwise, exceed its undivided
earnings and reserve fund so that the estimated value of
its assets is less than the total amount due the share-
holders the credit union may, by a three-fourths vote
of the entire membership at a meeting called to consider
the matter, order a reduction in the liability of such credit
union to each of its shareholders so as to divide the loss
proportionately among the shareholders. If thereafter the
credit union shall realize from such assets a greater
amount than was fixed by the order of reduction, such
excess shall be divided among the shareholders whose
assets were reduced, but only to the extent of such re-
duction.

**Sec. 27. Conversion.**—A credit union chartered under
state law may be converted into a federal credit union under the laws of this state by complying with the following requirements:

(1) The proposition for such conversion shall first be approved, and a date set for a vote thereon by the members, (either at a meeting to be held on such date or by written ballot to be filed on or before such date), by a majority of the directors of the said credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty or less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of two thirds of the members, in person or in writing.

(2) A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary, shall be filed with the commissioner of banking within ten days after the vote is taken.

(3) Promptly after the vote is taken and in no event
later than ninety days thereafter, if the proposition for
conversion was approved by such vote, the credit union
shall take such action as may be necessary, under the ap-
pllicable federal law to make it a federal credit union, and
within ten days after receipt of the federal credit union
charter there shall be filed with the commissioner of
banking a copy of the charter thus issued. Upon such
filing the credit union shall cease to be a credit union
governed by state law.

(4) Upon ceasing to be a credit union chartered under
state law, such credit union shall no longer be subject to
any of the provisions of this article. The successor federal
credit union shall be vested with all the assets and shall
continue responsible for all of the obligations of the state
credit union to the same extent as though the conversion
had not taken place.

Sec. 28. Merger.—Any credit union may, with the ap-
proval of the commissioner of banking, merge with an-
other credit union, provided the membership of the one
credit union is within the field of membership of the
other, under the existing charter of such other credit
union, pursuant to any plan agreed upon by the majority
of the board of directors of each credit union joining in
the merger, and approved by the affirmative vote of two
thirds of the members of each such credit union, either
at meetings of the membership duly called for such pur-
pose or in writing. After such agreement by the directors
and approval by the members of each credit union the
president and secretary of each credit union shall execute
in duplicate, a certificate of merger, which shall set forth
all of the following:
(a) The time and place of the meeting of the board
of directors at which the plan was agreed upon;
(b) The vote in favor of adoption of the plan;
(c) A copy of the resolution or other action by which
the plan was agreed upon;
(d) The time and place of the meeting of the members
at which the plan agreed upon was approved;
(e) The vote by which the plan was approved by the
members;
(f) The date the merger was approved by the commis-
sioner of banking.
Such certificates, in duplicate, and a copy of the plan of
merger agreed upon shall be forwarded to the commis-
sioner of banking, and a copy of the certificate certified by
him, shall be returned to the merging credit unions within
thirty days.

Upon any such merger so effected, all property, prop-
erty rights, and interest of the merged credit union shall
vest in the surviving credit union without deed, endorse-
ment or other instrument of transfer, and all debts, ob-
ligations and liabilities of the merged credit union shall
be deemed to have been assumed by the surviving credit
union under whose charter the merger was effected.

This section shall be construed, whenever possible, to
permit a credit union chartered under any other act to
merge with one chartered under this article, or to permit
one chartered under this article to merge with one char-
tered under any other act.

Sec. 29. Penalty for Violation of Article.—Any viola-
tion of this article shall be deemed a misdemeanor and
any person convicted thereof shall be fined not less than
one hundred nor more than five hundred dollars and
Sec. 30 Records.—All records of a credit union incorporated under this article shall be kept for a period of six years from the date of making same or from the date of the last entry thereon. No credit union shall be required to receipt for payment except as may be provided in the by-laws, nor shall it be necessary to endorse a note showing date or balance due.

Sec. 31. Audits.—The commissioner of banking shall examine or cause to be examined each credit union annually. Each credit union and all its officers and agents are required to give to representatives of said department free access to all books, papers, securities, records and other sources of information under their control; and for the purpose of such examination said representatives shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents. A report of such examination shall be submitted to the board of directors of each credit union by the examiner agent within thirty
days after the completion of the examination. Said report shall contain comments relative to the management of the affairs of the credit union and also as to the general condition of its assets. This report shall be read to the members at the next annual meeting. Within thirty days of the receipt of such report, a general meeting of the directors and committeemen shall be called to consider matters contained in the report and methods of correcting exceptions.

Sec. 32. Spreading False Reports.—Any person, firm, corporation, or association which maliciously and knowingly spreads false reports about the management or finances of any credit union shall, upon conviction, be fined not less than twenty-five dollars nor more than two hundred dollars or be imprisoned for not less than thirty days nor more than one year, or both.

Sec. 33. Taxation.—Any credit union organized under this or any other credit union act shall be exempt from all taxation now or hereafter imposed by this jurisdiction or any municipality within this jurisdiction or any local taxing authority and no law which taxes corpor-
ations in any form, or the shares thereof, or the accumu-
ations thereon, shall apply to any such credit union;
except that any real property and any tangible personal
property owned by any such credit union shall be subject
to taxation to the same extent as other similar property
is taxed. The shares of credit unions shall not be subject
to any stock transfer tax, either when issued or when
transferred from one member to another. The partici-
pation by the credit union in any unemployment insur-
ance fund, or social security fund, or old age fund, shall
not be deemed a waiver of the tax immunities hereby
granted.

Sec. 34. Credit Unions Heretofore Organized Need Not
Obtain New Charter; Actions Validated.—All credit
unions which have been heretofore legally organized
under chapter thirty-six of the acts of the legislature of
one thousand nine hundred twenty-five and which are in
existence on the effective date of this section; and all
credit unions which have been heretofore legally organ-
ized under article ten of chapter thirty-one of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, and which are in existence on the effective
date of this section, shall upon the effective date of this
section be considered to have been organized under the
provisions of this article, and shall not be required to
obtain a new charter or to reorganize hereunder. All acts
and things done by any such credit unions, insofar as
such acts and things shall not have constituted any viola-
tion of law as it shall heretofore have existed, shall be
deemed valid and effective.

Sec. 35. Validity.—All laws or parts of laws in conflict
with the provisions of this article are hereby repealed to
the extent of such conflict. The invalidity of any section,
or part thereof, shall not affect or render the remainder
of this article invalid or inoperative.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clay Parker
Chairman Senate Committee

E.B. L. Sandall
Chairman House Committee

Originated in the House.

Takes effect July 1, 1963.

Howard Mapp
Clerk of the Senate

C.A. Blankenship
Clerk of the House of Delegates

Howard E. Carver
President of the Senate

Julius W. Bingleton Jr.
Speaker House of Delegates

The within approve this the 14th day of March, 1963.

Governor