

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

HOUSE BILL No. 453

(By Mr. White & Mr. Keister)



PASSED March 8 1963

In Effect July 1, 1963 Passage



Filed in Office of the Secretary of State
of West Virginia 3-15-63

JOE F. BURDETT
SECRETARY OF STATE

453

ENROLLED
House Bill No. 453

(By MR. WHITE and MR. KEISTER, of Harrison)

[Passed March 8, 1963; in effect July 1, 1963.]

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

2 May Form; Agreement; Bylaws, Charter, Approval by

3 Commissioner of Banking, Filing, Certificate of Authority;

4 Form of Incorporation and Bylaws Prescribed by Com-

5 missioner of Banking.—A credit union is hereby defined

6 as a cooperative, nonprofit association, incorporated in

7 accordance with the provisions of this article for the pur-

8 pose of creating a source of credit at a fair and reason-

9 able rate of interest, of encouraging habits of thrift among

10 its members and of providing the opportunity for people

11 to use and control their money for their mutual benefit.

12 Any eight persons, residents of the state of West Vir-

13 ginia and having a common bond of occupation or as-

14 sociation, may apply to the secretary of state for per-

15 mission to organize a credit union. A credit union shall
16 be organized in the following manner:

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

20 (1) The name of the proposed credit union which
21 shall include the words "credit union" and which shall
22 not be the same as that of any other existing credit
23 union.

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

26 (3) The names and post office addresses of the in-
27 corporators, and the number of shares subscribed by
28 each;

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

33 (b) The applicants shall then prepare and adopt by-
34 laws for the general government of the credit union
35 consistent with the provisions of this article and execute

36 the same in duplicate. The by-laws shall specify:

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

40 (2) The number of directors, which shall be not less
41 than five, all of whom must be shareholders and mem-
42 bers of the credit union, their powers and duties; and
43 the compensation and duties of all officers;

44 (3) The conditions and qualifications for member-
45 ship;

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

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

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

53 (7) The conditions upon which deposits may be re-
54 ceived and withdrawn, and whether the credit union
55 shall have the power to borrow;

56 (8) The manner in which the funds of the credit
57 union shall be invested;

58 (9) The conditions upon which loans may be made
59 and repaid;

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

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

64 (12) The manner in which dividends shall be de-
65 termined and paid out.

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

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

74 (e) Thereupon the secretary of state shall notify the
75 applicants of his decision. If it is favorable, he shall issue
76 a charter, attach the charter to the duplicate of the agree-
77 ment and return the same, together with the duplicate
78 of the bylaws to the applicants: *Provided, That the sec-*

79 retary of state shall issue no charter to any credit union
80 to do business in this state until such incorporation
81 agreement and by-laws have been approved in writing
82 by the commissioner of banking;

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

88 (g) When any credit union authorized by this article
89 desires to begin business, it must notify the commissioner
90 of banking, who shall at his earliest convenience make
91 an examination of its affairs. Having satisfied himself
92 that all the conditions precedent have in good faith been
93 complied with, said commissioner shall then issue to such
94 credit union, under his hand, and official seal, a certifi-
95 cate of authority reciting that such examination has been
96 made and that the credit union is authorized to commence
97 business which certificate shall be displayed in the busi-
98 ness place of such credit union. But the commissioner
99 may withhold from any credit union his certificate au-

100 authorizing the commencement of business whenever he
101 has reason to suppose that the members have formed the
102 same for any other than the legitimate objects contem-
103 plated in this article.

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

Sec. 18. Investment of Capital, Undivided Profits and

2 **Reserve Funds.**—The capital deposits, undivided profits
3 and reserve funds of the corporation may be invested in
4 the following ways, and in such ways only:

5 (a) Loaned to members of the corporation in accord-
6 ance with the provisions of this article;

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

10 (c) In obligations of the United States of America,
11 or in securities fully guaranteed thereby as to both prin-
12 cipal and interest or in shares or accounts of federal

13 savings and loan associations; *and*

14 (d) In any investment legal for banking institutions
15 or trust funds in this jurisdiction ~~and~~

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

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

14 If any member of the credit committee makes applica-
15 tion to borrow money from a credit union or becomes
16 surety for any other member whose application for a
17 loan is under consideration, the supervisory committee
18 shall appoint a substitute to act on the credit committee

19 in the place of such member, during the consideration of
20 such application. All officers and members of any com-
21 mittee in any way knowingly permitting or participating
22 in making a loan of funds of a credit union to a non-
23 member thereof shall be guilty of a misdemeanor. The
24 credit union shall have the right to recover the amount
25 of any such illegal loan from the borrower or from any
26 officer or member of a committee who knowingly com-
27 mitted or participated in the making thereof, or from all
28 of them jointly.

29 A borrower may repay the whole or any part of his
30 loan ^{or} any day on which the office of the corporation is
31 open for the transaction of business.

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Sec. 20. Reserve Fund, of What Constituted; Increase
2 **or Decrease.**—All entrance fees, transfer fees and charges
3 shall, after the payment of organization expenses, be
4 known as reserve income and shall be added to the re-
5 serve fund of the corporation. At the close of each fiscal
6 year there shall be set apart to the reserve fund twenty
7 per cent of the net income of the corporation which has
8 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

13 except for the purpose of liquidation, and the president
14 and secretary shall, within five days following such
15 meeting, notify the commissioner of banking of inten-
16 tion to liquidate and shall include a list of the names of
17 the directors and officers of the credit union together
18 with their addresses.

19 (b) Involuntary—If it shall appear that any credit
20 union is bankrupt or insolvent, or that it has violated
21 any of the provisions of this article, the commissioner
22 of banking may, after holding a hearing or giving ade-
23 quate opportunity for a hearing order such credit union to
24 correct such condition and shall grant it not less than
25 sixty days within which to comply, and failure to do so
26 shall afford the commissioner of banking grounds for
27 revocation of the certificate of approval and charter and
28 for appointment of a receiver ^{for} or _^ applying to the appro- *for*
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29 priate court of the jurisdiction in which such credit union
30 is located for the appointment of a receiver to close the
31 affairs of such credit union.

32 (c) Liquidating Procedures—The credit union shall
33 continue in existence for the purpose of discharging its

34 debts, collecting and distributing its assets, and doing all
35 acts required in order to wind up its business and may
36 sue and be sued for the purpose of enforcing such debts
37 and obligations until its affairs are fully adjusted and
38 wound up, for three years.

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

50 As soon as the board or the receiver determines that
51 all assets from which there is a reasonable expectancy
52 of realization have been liquidated and distributed as
53 set forth in this section, a certificate of dissolution shall be
54 executed on a form prescribed by the commissioner

55 of banking and file same with the proper recording
56 agency within the jurisdiction wherein the credit union
57 had its principal place of business, which shall, after re-
58 cording and indexing same, forward it to the commis-
59 sioner of banking, whereupon such credit union shall
60 be dissolved.

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

Sec. 27. Conversion.—A credit union chartered under

2 state law may be converted into a federal credit union
3 under the laws of this state by complying with the follow-
4 ing requirements:

5 (1) The proposition for such conversion shall first be
6 approved, and a date set for a vote thereon by the mem-
7 bers, (either at a meeting to be held on such date or by
8 written ballot to be filed on or before such date), by a
9 majority of the directors of the said credit union. Writ-
10 ten notice of the proposition and of the date set for the
11 vote shall then be delivered in person to each member,
12 or mailed to each member at the address for such member
13 appearing on the records of the credit union, not more
14 than thirty or less than seven days prior to such date. Ap-
15 proval of the proposition for conversion shall be by the
16 affirmative vote of two thirds of the members, in person
17 or in writing.

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

22 (3) Promptly after the vote is taken and in no event

23 later than ninety days thereafter, if the proposition for
24 conversion was approved by such vote, the credit union
25 shall take such action as may be necessary ^{under} ~~to~~ the ap- OK
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26 plicable federal law to make it a federal credit union, and
27 within ten days after receipt of the federal credit union
28 charter there shall be filed with the commissioner of
29 banking a copy of the charter thus issued. Upon such
30 filing the credit union shall cease to be a credit union
31 governed by state law.

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

Sec. 28. Merger.—Any credit union may, with the ap-
2 proval of the commissioner of banking, merge with an-
3 other credit union, provided the membership of the one
4 credit union is within the field of membership of the
5 other, under the existing charter of such other credit

6 union, pursuant to any plan agreed upon by the majority
7 of the board of directors of each credit union joining in
8 the merger, and approved by the affirmative vote of two
9 thirds of the members of each such credit union, either
10 at meetings of the membership duly called for such pur-
11 pose or in writing. After such agreement by the directors
12 and approval by the members of each credit union the
13 president and secretary of each credit union shall execute
14 in duplicate, a certificate of merger, which shall set forth
15 all of the following:

16 (a) The time and place of the meeting of the board
17 of directors at which the plan was agreed upon;

18 (b) The vote in favor of adoption of the plan;

19 (c) A copy of the resolution or other action by which
20 the plan was agreed upon;

21 (d) The time and place of the meeting of the members
22 at which the plan agreed upon was approved;

23 (e) The vote by which the plan was approved by the
24 members;

25 (f) The date the merger was approved by the commis-
26 sioner of banking.

27 Such certificates, in duplicate, and a copy of the plan of
28 merger agreed upon shall be forwarded to the commis-
29 sioner of banking, and a copy of the certificate certified by
30 him, shall be returned to the merging credit unions within
31 thirty days.

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

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

Sec. 29. Penalty for Violation of Article.—Any viola-
2 tion of this article shall be deemed a misdemeanor and
3 any person convicted thereof shall be fined not less than
4 one hundred nor more than five hundred dollars and

5 imprisoned in the county jail not less than one month
6 nor more than six months.

Sec. 30 Records.—All records of a credit union incor-
2 porated under this article shall be kept for a period of
3 six years from the date of making same or from the date
4 of the last entry thereon. No credit union shall be re-
5 quired to receipt for payment except as may be provided
6 in the by-laws, nor shall it be necessary to endorse a
7 note showing date or balance due.

Sec. 31. Audits.—The commissioner of banking shall
2 examine or cause to be examined each credit union
3 annually. Each credit union and all its officers and
4 agents are required to give to representatives of said
5 department free access to all books, papers, securities,
6 records and other sources of information under their con-
7 trol; and for the purpose of such examination said repre-
8 sentatives shall have power to subpoena witnesses, ad-
9 minister oaths, compel the giving of testimony, and re-
10 quire the submission of documents. A report of such
11 examination shall be submitted to the board of directors
12 of each credit union by the examiner agent within thirty

13 days after the completion of the examination. Said re-
14 port shall contain comments relative to the management
15 of the affairs of the credit union and also as to the general
16 condition of its assets. This report shall be read to the
17 members at the next annual meeting. Within thirty days
18 of the receipt of such report, a general meeting of the
19 directors and committeemen shall be called to consider
20 matters contained in the report and methods of correcting
21 exceptions.

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

Sec. 33. Taxation.—Any credit union organized under
2 this or any other credit union act shall be exempt from
3 all taxation now or hereafter imposed by this jurisdic-
4 tion or any municipality within this jurisdiction or any
5 local taxing authority and no law which taxes corpor-

6 ations in any form, or the shares thereof, or the accumu-
7 lations thereon, shall apply to any such credit union;
8 except that any real property and any tangible personal
9 property owned by any such credit union shall be subject
10 to taxation to the same extent as other similar property
11 is taxed. The shares of credit unions shall not be subject
12 to any stock transfer tax, either when issued or when
13 transferred from one member to another. The partici-
14 pation by the credit union in any unemployment insur-
15 ance fund, or social security fund, or old age fund, shall
16 not be deemed a waiver of the tax immunities hereby
17 granted.

**Sec. 34. Credit Unions Heretofore Organized Need Not
2 Obtain New Charter; Actions Validated.—**All credit
3 unions which have been heretofore legally organized
4 under chapter thirty-six of the acts of the legislature of
5 one thousand nine hundred twenty-five and which are in
6 existence on the effective date of this section; and all
7 credit unions which have been heretofore legally organ-
8 ized under article ten of chapter thirty-one of the code
9 of West Virginia, one thousand nine hundred thirty-one,

10 as amended, and which are in existence on the effective
11 date of this section, shall upon the effective date of this
12 section be considered to have been organized under the
13 provisions of this article, and shall not be required to
14 obtain a new charter or to reorganize hereunder. All acts
15 and things done by any such credit unions, insofar as
16 such acts and things shall not have constituted any viola-
17 tion of law as it shall heretofore have existed, shall be
18 deemed valid and effective.

Sec. 35. Validity.—All laws or parts of laws in conflict
2 with the provisions of this article are hereby repealed to
3 the extent of such conflict. The invalidity of any section,
4 or part thereof, shall not affect or render the remainder
5 of this article invalid or inoperative.

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

Ray Parker
Chairman Senate Committee

Ethel L. Randall
Chairman House Committee

Originated in the House.

Takes effect July 1, 1963 ~~passage~~

Howard Meyers
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard Polunson
President of the Senate

Julius W. Broughton Jr.
Speaker House of Delegates

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

W. W. Barron
Governor

