

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967



ENROLLED

HOUSE BILL No. 707

(By Mr. Payne)



PASSED March 10, 1967

In Effect Ninety days from Passage



FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-20-67

#707

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House Bill No. 707

(By MR. PAYNE)

[Passed March 10, 1967; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, requiring agreements of incorporation and all amendments to the charter of any corporation to contain a statement of the name and address of the person who, or the firm which, prepared such agreement or amendment.

Be it enacted by the Legislature of West Virginia:

That section six, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. PROVISIONS RELATING TO CORPORATIONS
GENERALLY.**

**§31-1-6. Agreement of incorporation; contents; execution;
filing with secretary of state.**

1 The persons desiring to form a corporation as pro-
2 vided in section four hereof, shall sign, acknowledge and
3 file with the secretary of state an agreement, in the gen-
4 eral form prescribed by the secretary of state, in which
5 shall be set forth:

6 (a) The name of the corporation, which name shall
7 contain one of the words "association," "company," "cor-
8 poration," "club," "incorporated," "society," "union," or
9 "syndicate," or one of the abbreviations, "co." or "inc.";
10 but no name shall be assumed already in use by another
11 existing corporation of this state, or by a foreign corpora-
12 tion lawfully doing business in this state, or so similar
13 thereto, in the opinion of the secretary of state, as to
14 lead to confusion. The name desired by the incorpor-
15 ators may be reserved for a period of sixty days prior
16 to the formal filing of an application for incorporation.
17 In no case shall the period of reservation exceed sixty
18 days.

19 (b) The address, including the street name and street
20 number, if any, and the city, town or village, of its prin-
21 cipal office or place of business and the location of its
22 chief works, if any.

23 (c) The object or objects for which the corporation
24 is formed.

25 (d) If the corporation is to be authorized to issue only
26 one class of stock, the total number of shares of stock
27 which the corporation shall have authority to issue and
28 (1) the par value of each of such shares, or (2) a state-
29 ment that all such shares are to be without par value;
30 or, if the corporation is to be authorized to issue more
31 than one class of stock, the total number of shares of
32 all classes of stock which the corporation shall have
33 authority to issue and (1) the number of the shares of
34 each class thereof that are to have a par value and the
35 par value of each share of each such class, and/or (2)
36 the number of such shares that are to be without par
37 value, and (3) a statement of all or any of the designa-
38 tions and the powers, preferences and rights, and the
39 qualifications, limitations or restrictions thereof, which

40 are permitted by the provisions of section twenty-two
41 of this article in respect of any class or classes of stock
42 of the corporation and the fixing of which by the agree-
43 ment of incorporation is desired, and an express grant
44 of such authority as it may then be desired to grant to
45 the board of directors to fix by resolution or resolutions
46 any thereof that may be desired but which shall not
47 be fixed by such agreement. In each case the agreement
48 of incorporation shall also set forth the minimum amount
49 of capital with which the corporation will commence
50 business, which shall not be less than one thousand dol-
51 lars. The provisions of this subdivision (d) shall not
52 apply to corporations which are not organized for profit
53 and which are not to have authority to issue capital
54 stock. In the case of such corporations, the fact that they
55 are not to have authority to issue capital stock shall be
56 stated in the agreement of incorporation, and the condi-
57 tions of membership shall be stated therein.

58 (e) The full names and addresses, including street
59 and street numbers, if any, and the city, town or village,

60 of the incorporators, and, if a stock corporation, the num-
61 ber of shares subscribed by each.

62 (f) Whether or not the corporation is to have per-
63 petual existence. If not, the time when its existence is
64 to commence and the time its existence is to cease.

65 (g) The agreement may also contain any provision
66 which the incorporators may choose to insert for the
67 management of the business and for the conduct of the
68 affairs of the corporation, and any provisions creating,
69 defining, limiting and regulating the powers of the cor-
70 poration, the directors and the stockholders, or any class
71 of the stockholders, or, in the case of a corporation which
72 is to have no capital stock, of the members of such cor-
73 poration: *Provided*, That such provisions are not contrary
74 to the laws of this state.

75 (h) The agreement may also contain the following
76 provision in haec verba, viz:

77 "Whenever a compromise or arrangement is proposed
78 between this corporation and its creditors or any class
79 of them and/or between this corporation and its stock-
80 holders or any class of them, any court of equitable juris-

81 diction within the state of West Virginia may, on the
82 application in a summary way of this corporation or of
83 any creditor or stockholder thereof, or on the applica-
84 tion of trustees in dissolution or of any receiver or re-
85 ceivers appointed for this corporation under the laws
86 of the state of West Virginia, order a meeting of the
87 creditors or class of creditors, and/or of the stockholders
88 or class of stockholders of this corporation, as the case
89 may be, to be summoned in such manner as the court
90 directs. If a majority in number representing three
91 fourths in value of the creditors or class of creditors,
92 and/or of the stockholders or class of stockholders of
93 this corporation, as the case may be, agree to any com-
94 promise or arrangement and to any reorganization of
95 this corporation as consequence of such compromise or
96 arrangement, such compromise or arrangement and such
97 reorganization shall, if sanctioned by the court to which
98 such application has been made, be binding on all the
99 creditors or class of creditors, and/or on all the stock-
100 holders or class of stockholders of this corporation, as
101 the case may be, and also on this corporation.”

102 (i) The agreement may also contain such provisions
103 as may be desired limiting or denying to the stockholders
104 the preemptive right to subscribe to any or all addi-
105 tional issues of stock of the corporation of any or all
106 classes.

107 (j) The agreement may also contain provisions re-
108 quiring for any corporate action the vote of a larger
109 proportion of the stock or any class thereof than is re-
110 quired by this chapter.

111 (k) The agreement and all amendments to the charter
112 issued pursuant to such agreement shall contain a state-
113 ment of the name and address of the person who, or the
114 firm which, prepared such agreement or amendment.

115 The agreement of incorporation shall be acknowledged
116 by the incorporators before a notary public and trans-
117 mitted with the proper fees to, and shall be filed with,
118 the secretary of state.

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

William Tempus
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Meyers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Selvan White
Speaker House of Delegates

The within approved this the 17
day of March, 1967.

Herbert C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 3/17/67

Time 3:07 P.M.