

APPROVED AND SIGNED BY THE GOVERNOR

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No: 1093

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

HOUSE BILL No. 1093

(By Mr. Burdette)



Passed March 16, 1981

In Effect Ninety Days From Passage



ENROLLED

H. B. 1093

(By MR. BURDETTE)

[Passed March 16, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact sections ten, seventeen, nineteen, twenty 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 ten by adding thereto a new section, designated section fifteen-a, all relating to credit unions; the approval of loans by the credit committee or a loan officer; the form for loan applications; appeal from a decision of the credit committee; appointment of loan officers; record of loan applications; prohibition on disbursement by a loan officer; line of credit accounts; review of line of credit accounts; default and termination of line of credit accounts; requirement for share and deposit insurance; exception; sanctions for failure to obtain insurance; extensions of time to obtain insurance; commitment for insurance a condition precedent for grant of new charter; availability of reports; appointment of liquidating agent; power to rediscount and borrow; limitations on amount of rediscounts and borrowings; security for loans to members; installment crop loans; loan to members of a credit committee; illegal loan to a nonmember; repayment of loans; reserve income; proportion of profits placed in reserve fund; conversion of state chartered credit union into federal credit union; notice, voting and approval by credit union members of the proposition for conversion; verification and filing of voting results; application for status as a federal credit union; cessation of applicability of this article; effect of conversion on assets and obligations; and providing for the conversion of

a federal credit union or a credit union of another state to a credit union incorporated under the laws of this state.

Be it enacted by the Legislature of West Virginia:

That sections ten, seventeen, nineteen, twenty 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 ten be further amended by adding thereto a new section, designated section fifteen-a, all to read as follows:

ARTICLE 10. CREDIT UNIONS.

§31-10-10. Loans to be approved by credit committee or loan officers; applications; appeal to directors; appointment of loan officers; powers and duties of loan officers; appeal to credit committee; lines of credit; review of lines of credit; termination.

1 (a) The credit committee or its appointed loan officer
2 shall approve every loan or line of credit made by the
3 corporation to members. Every application for a loan shall
4 be made in writing on a form prepared by the board of
5 directors and shall state the purpose for which the loan is
6 desired and any security offered. Except as provided in subsec-
7 tion (b) of this section, no loan shall be made if it has not
8 received the approval of the entire number of such committee
9 present when it was considered, which number shall be at least
10 a majority of the members of such committee, nor if any
11 member of such committee shall disapprove thereof, but
12 the applicant for a loan may appeal from the decision of the
13 credit committee to the board of directors. The credit com-
14 mittee shall meet as often as may be required, after due
15 notice has been given to each member.

16 (b) The credit committee may appoint one or more loan
17 officers and delegate to him or them the power to approve
18 loans and lines of credit within amounts and under conditions
19 established by the credit committee. A member whose applica-
20 tion has been disapproved by a loan officer may appeal such
21 action to the credit committee. Each loan officer shall furnish
22 to the credit committee a record of each application approved

23 or not approved by him within seven days of the date of filing
24 of the application therefor. No individual shall have authority
25 to disburse funds of the credit union for any loan which has
26 been approved by him in his capacity as loan officer: *Pro-*
27 *vided*, That the loan officer may disburse funds approved by
28 him which are fully secured by shares or which do not exceed
29 the credit union's unsecured loan limit.

30 (c) With the written approval of the commissioner of
31 banking, and within lending limits established by the com-
32 missioner, a credit union may make line of credit loans in
33 accordance with the provisions of section one hundred six,
34 article three, chapter forty-six-a. The credit committee or the
35 loan officer may approve a member's application for a self-
36 replenishing line of credit, and loan advances may be granted
37 to the member within the limit of such line of credit. Each
38 such line of credit shall be reviewed not less than annually by
39 the credit committee and approved or disapproved as to
40 the grant of further loan advances. Any line of credit with
41 respect to which the member is in default by virtue of being
42 ninety days delinquent in payment shall automatically termi-
43 nate: *Provided*, That such termination shall not affect the
44 rights, liabilities, and obligations of the credit union and the
45 defaulting member with respect to loans made prior to the
46 effective date of termination or any collateral securing such
47 loans.

**§31-10-15a. Share and deposit insurance required; exception; sanc-
tions for failure to obtain insurance; extension of
time; new charter contingent upon insurance com-
mitment; availability of reports.**

1 (a) All credit unions established pursuant to this chapter
2 shall qualify for and obtain insurance on shares and deposits as
3 provided by the National Credit Union Administration under
4 Title II of the Federal Credit Union Act, or alternatively, a
5 form of comparable insurance approved by the commissioner
6 of banking.

7 (b) Each credit union which fails to obtain insurance as
8 required herein by the first day of January, one thousand nine
9 hundred eighty-two, shall be prohibited from conducting

10 business as a credit union until such insurance is obtained. A
11 credit union which has been denied a commitment for such
12 insurance shall within thirty days commence steps to either
13 liquidate, or merge with an insured credit union, or apply
14 in writing to the commissioner of banking for additional time
15 to obtain an insurance commitment. The commissioner of
16 banking shall grant one or more extensions of time to obtain
17 the insurance commitment upon satisfactory evidence that the
18 credit union has made or is making a substantial effort to
19 achieve the conditions precedent to issuance of the commit-
20 ment.

21 (c) No credit union shall be granted a charter by the
22 commissioner of banking unless such credit union has ob-
23 tained a commitment for insurance of its members share and
24 deposit accounts.

25 (d) The commissioner of banking may make available
26 reports of condition and examination findings to the National
27 Credit Union Administration or to any qualified insuring or-
28 ganization and may accept any report of examination made on
29 behalf of such agency or organization. The commissioner of
30 banking may appoint an official of the National Credit Union
31 Administration or of any qualified insuring organization as
32 liquidating agent of an insured credit union.

§31-10-17. Rediscounts and borrowings.

1 If the bylaws so provide, a credit union shall have the
2 power to rediscount, as hereinafter provided, or to borrow
3 money from any source, in addition to receiving deposits, as
4 indicated in section fifteen. Unless otherwise authorized in
5 writing by the commissioner of banking, the aggregate amount
6 of such rediscounts and borrowings shall at no time exceed
7 twenty percent of the sum total of the capital, surplus and re-
8 serve funds of such borrowing credit union, and in no event
9 shall such rediscounts and borrowings exceed fifty percent of
10 the sum total of the capital, surplus and reserve funds of such
11 borrowing credit union.

**§31-10-19. Security for loans to members; installment crop loans;
loan to member of credit committee; illegal to loan
to nonmembers; repayment of loans.**

1 As provided in section eighteen of this article, a credit union

2 may loan to its members for such purposes and upon such
3 security and terms as the bylaws shall provide and the credit
4 committee shall approve; but security must be taken for any
5 loan in excess of two thousand five hundred dollars: *Provided,*
6 That upon written approval of the commissioner of banking,
7 credit unions having assets of more than one million dollars
8 may be authorized to make unsecured loans in excess of two
9 thousand five hundred dollars but not in excess of five thou-
10 sand dollars each. Endorsements of a note or assignment of
11 shares in any credit union shall be deemed security within the
12 meaning of this section.

13 A member who needs funds with which to purchase neces-
14 sary supplies for growing crops may receive a loan in fixed
15 monthly installments instead of in one sum.

16 If any member of the credit committee makes application to
17 borrow money from a credit union or becomes surety for any
18 other member whose application for a loan is under consider-
19 ation, the supervisory committee shall appoint a substitute to
20 act on the credit committee in the place of such member, dur-
21 ing the consideration of such application. All officers and
22 members of any committee in any way knowingly permitting or
23 participating in making a loan of funds of a credit union to a
24 nonmember thereof shall be guilty of a misdemeanor. The
25 credit union shall have the right to recover the amount of any
26 such illegal loan from the borrower or from any officer or
27 member of a committee who knowingly committed or parti-
28 cipated in the making thereof, or from all of them jointly.

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

**§31-10-20. Fees, charges and proportion of profits placed in re-
serve fund; use of fund.**

1 All entrance fees, transfer fees and charges shall, after
2 the payment of organization expenses, be known as reserve
3 income and shall be added to the reserve fund of the corpor-
4 ation. In addition to such reserves as the commissioner of
5 banking may from time to time require a credit union to main-
6 tain, each credit union shall set aside at the first closing of its

7 books, a reserve fund equal to the amount of all membership
8 fees collected that year plus three percent of the principal on
9 outstanding loans to members and notes purchased from another
10 credit union. Each subsequent year, upon the closing of the
11 books, fifteen percent of the net earnings shall be added to
12 the reserve fund until it equals five percent of outstanding loans
13 and notes. Then ten percent of the net earnings shall be
14 added until the fund equals seven percent of such loans and
15 notes. If the reserve fund becomes less than seven percent of
16 such loans and notes, then the schedule of allocation to the
17 reserve fund shall apply until the seven percent ratio is again
18 established.

19 The reserve fund shall belong to the corporation and shall
20 be held to meet contingencies, and shall not be distributed to
21 the members, except upon dissolution of the corporation.

§31-10-27. Conversion of charter.

1 A credit union chartered under state law may be con-
2 verted into a federal credit union under the laws of this state
3 by complying with the following requirements:

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

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

20 (c) Promptly after the vote is taken and in no event later
21 than ninety days thereafter, if the proposition for conversion

22 was approved by such vote, the credit union shall take such
23 action as may be necessary under the applicable federal
24 law to make it a federal credit union, and within ten days after
25 receipt of the federal credit unit charter there shall be filed
26 with the commissioner of banking a copy of the charter thus
27 issued. Upon such filing, the credit union shall cease to be
28 a credit union governed by state law.

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

36 (e) A credit union organized under the laws of the United
37 States or of any other state may convert to a credit union
38 incorporated under the laws of this state. To effect such a
39 conversion, a credit union must comply with all the require-
40 ments of the jurisdiction under which it was originally or-
41 ganized and all requirements of the law of this state: *Pro-*
42 *vided*, That the commissioner of banking shall adopt such rules
43 and regulations as he deems necessary and proper, establishing
44 the procedure for converting such a credit union to a credit
45 union incorporated under the laws of this state. Proof shall be
46 filed by the credit union with the commissioner of banking
47 as to compliance with the requirements of the jurisdiction
48 under which it was originally organized and the requirements
49 of said commissioner.

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

R. P. Bayle

Chairman Senate Committee

Tony E. Whitlow

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Willis

Clerk of the Senate

VA Bloukenship

Clerk of the House of Delegates

Warren R. McSwain

President of the Senate

Clayton H. Lee, Jr.

Speaker House of Delegates

The within is approved this the 26
day of March, 1981.

Paul D. Abney

Governor

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OFFICE
SECY. OF STATE

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OFFICE OF THE GOVERNOR