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 proving 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; appoint-
ment 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
or not approved by him within seven days of the date of filing
of the application therefor. No individual shall have authority
to disburse funds of the credit union for any loan which has
been approved by him in his capacity as loan officer: Pro-
vided, That the loan officer may disburse funds approved by
him which are fully secured by shares or which do not exceed
the credit union’s unsecured loan limit.

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

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

(b) Each credit union which fails to obtain insurance as
required herein by the first day of January, one thousand nine
hundred eighty-two, shall be prohibited from conducting
business as a credit union until such insurance is obtained. A credit union which has been denied a commitment for such insurance shall within thirty days commence steps to either liquidate, or merge with an insured credit union, or apply in writing to the commissioner of banking for additional time to obtain an insurance commitment. The commissioner of banking shall grant one or more extensions of time to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment.

(c) No credit union shall be granted a charter by the commissioner of banking unless such credit union has obtained a commitment for insurance of its members share and deposit accounts.

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

§31-10-17. Rediscounts and borrowings.

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

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 bylaws shall provide and the credit
committee shall approve; but security must be taken for any
loan in excess of two thousand five hundred dollars: Provided,
That upon written approval of the commissioner of banking,
credit unions having assets of more than one million dollars
may be authorized to make unsecured loans in excess of two
thousand five hundred dollars but not in excess of five thou-
sand dollars each. 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 neces-
sary 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 consider-
ation, the supervisory committee shall appoint a substitute to
act on the credit committee in the place of such member, dur-
ing the consideration of such application. All officers and
members of any committee in any way knowingly permitting or
participating in making a loan of funds of a credit union to a
nonmember 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 committed or partici-
pated in the making thereof, or from all of them jointly.

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

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

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 reserve fund of the corpora-
tion. In addition to such reserves as the commissioner of
banking may from time to time require a credit union to main-
tain, each credit union shall set aside at the first closing of its
books, a reserve fund equal to the amount of all membership fees collected that year plus three percent of the principal on outstanding loans to members and notes purchased from another credit union. Each subsequent year, upon the closing of the books, fifteen percent of the net earnings shall be added to the reserve fund until it equals five percent of outstanding loans and notes. Then ten percent of the net earnings shall be added until the fund equals seven percent of such loans and notes. If the reserve fund becomes less than seven percent of such loans and notes, then the schedule of allocation to the reserve fund shall apply until the seven percent ratio is again established.

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

§31-10-27. Conversion of charter.

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:

(a) 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.

(b) 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.

(c) 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 applicable federal
law to make it a federal credit union, and within ten days after
receipt of the federal credit unit 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.

(d) 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 to
be responsible for all of the obligations of the state credit
union to the same extent as though the conversion had not
taken place.

(e) A credit union organized under the laws of the United
States or of any other state may convert to a credit union
incorporated under the laws of this state. To effect such a
conversion, a credit union must comply with all the require-
ments of the jurisdiction under which it was originally or-
ganized and all requirements of the law of this state: Pro-
vided, That the commissioner of banking shall adopt such rules
and regulations as he deems necessary and proper, establishing
the procedure for converting such a credit union to a credit
union incorporated under the laws of this state. Proof shall be
filed by the credit union with the commissioner of banking
as to compliance with the requirements of the jurisdiction
under which it was originally organized and the requirements
of said commissioner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within _______ approved _______ this the _______ day of _______, 1981.

[Signature]
Governor