WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

Com. Sub. For

HOUSE BILL No. 2466

(By Delegate Hutchinson)

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Passed MARCH 13, 1987

In Effect Ninety Days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2466
(By Delegate Hutchinson)

[Passed March 13, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, three, four, seven, eight, nine, eleven and twenty-eight, article ten, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to credit unions generally: eliminating the requirement that the annual meeting of credit unions be held between the first day of January and the thirty-first day of March; providing for a misdemeanor offense for the use of the words “credit union” except by corporations formed under this article and establishing a penalty therefor; empowering the commissioner of banking to authorize associations or league of credit unions to use the words “credit union” in its name; permitting credit unions to operate automated teller machines; providing for the membership of the board of directors, credit committee and supervisory committee of a credit union; requiring an annual audit by the supervisory committee; and describing the procedures whereby a credit union may merge with another credit union.

Be it enacted by the Legislature of West Virginia:

That sections one, three, four, seven, eight, nine, eleven and twenty-eight, article ten, 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 10. CREDIT UNIONS.

§31-10-1. Definition and purpose; who may form; incorporation agreement; bylaws; charter approval; issuance and recordation; 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 permission 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 bylaws for the general government of the credit union consistent with the provisions of this article and execute the same in duplicate. The bylaws shall specify:
(1) The date of the annual meeting, which shall be prior to the first day of April 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 bylaws, 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 secretary of state shall issue no charter to any credit union to do business in this state until such incorporation agreement and bylaws 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 commission 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 authorizing 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 bylaws consistent with this article, which may be used by credit union incorporators.

§31-10-3. Penalty for unlawful use of words “credit union”; enjoining unlawful use.
The use by any person, copartnership, association or corporation, except corporations formed under the provisions of this article, of any name or title which contains the words "credit union," shall be a misdemeanor, punishable by a fine of not less than ten nor more than one hundred dollars for each day of the illegal use of such name, and such use may be enjoined by any court having equity jurisdiction over the party or parties. However, the commissioner of banking may authorize associations of credit unions or leagues of credit unions within the state whose members are credit unions to use a name or title which contains the words "credit union."


A credit union shall have the following powers:

(a) To receive the savings of its members either as payment on shares, or as deposits (including the right to conduct Christmas clubs, vacation clubs and other such thrift organizations within the membership);

(b) To make loans to members for provident or productive purposes;

(c) To make loans to cooperative society or other organization having membership in the credit union;

(d) To deposit funds in state and national banks;

(e) To invest in any investment legal for savings banks;

(f) To borrow money as hereinafter indicated;

(g) To permit the owner of a share or deposit to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties if such share or deposit is one in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational or other similar purposes and which is not operated for profit or if such deposit or account consists of public funds deposited by an officer, employee or agent of the United States, any state,
county, municipality or political subdivision thereof.

(h) To maintain automated teller machines at its principal location and at locations other than its principal office, upon the approval of the state banking commissioner and a majority vote of the members voting on such question. A credit union may join with one or more other credit unions or financial institutions in the operation of automated teller machines, upon the approval of the state banking commissioner and a majority vote in each credit union of the members voting on such question. The provisions of section seven of this article notwithstanding, members voting under the provisions of this subsection may cast their vote in person or by proxy.

§31-10-7. Fiscal year; annual and special meetings; voting; proxies.

1 The fiscal year of every such corporation shall end at the close of business on the thirty-first day of December.
2 The annual meeting of the corporation shall be held on such date as may be provided in the bylaws. Special meetings may be held by order of the directors or of the supervisory committee, and shall be held upon request, in writing, of ten percent of the members. Notice of all meetings of the corporation shall be given in the manner prescribed in the bylaws. At all meetings of members, a member shall have but one vote, irrespective of the number of shares held. No shareholder may vote by proxy, but a society, association, copartnership or corporation, having membership in a credit union, may be represented by one person authorized by such society, association, copartnership or corporation to so represent it. At any meeting the members may decide upon any question of interest to the corporation, and overrule the board of directors; and, by a three-fourths vote of those present and represented, may amend the bylaws, if the notice of the meeting shall have specified the question to be considered.

§31-10-8. Election of directors and committees; oaths of office.

1 At the annual meeting the members shall elect a
board of directors of not less than five members, and a
supervisory committee of not less than three members.
The board of directors shall appoint a credit committee
consisting of an odd number, but not less than three
members, or in lieu of a credit committee, one or more
loan officers. However, in the discretion of the members,
the board of directors as such may also be the credit
committee. One member of the board of directors who
is not serving as president or treasurer of the credit
union may also serve on the supervisory committee. All
members of committees and all directors, as well as all
officers whom they may elect, shall make oath as
hereinafter provided, and shall hold their several offices
for such terms as may be determined by the bylaws.

The oath required of each director, officer and
member of a committee shall be the oath of the
individual making the same, that he will, as far as the
duty devolves upon him, diligently and honestly admin-
ister the affairs of such corporation, and will not
knowingly violate, or willingly permit to be violated, any
of the provisions of law applicable to such corporation,
and that he is the owner in good faith and in his own
right on the books of the corporation of at least one share
therein. Such oath shall be subscribed by the individual
making it, and certified by the officer before whom it
is taken, and shall immediately be transmitted to the
commissioner of banking and filed and preserved in his
office.

§31-10-9. Election of officers; powers and duties of board
of directors; directors and committeemen not
to receive compensation.

At their first meeting, and at the first meeting in each
fiscal year, the board of directors shall elect from their
number a president, vice president, a secretary and a
treasurer. The office of secretary and treasurer may, if
the bylaws so provide, be held by one person; and other
officers may be elected in the discretion of the directors.
The board of directors shall have the general manage-
ment of the affairs, funds and records of the corporation,
and shall meet as often as may be necessary. Unless the
bylaws specifically reserve all or any of these duties to
the members, it shall be the special duty of the directors:
(a) To act upon all applications for membership and the
expulsion of members; (b) to fix the amount of the bond
which shall be required of each officer having the
custody of funds, which bond shall be signed as surety
by some indemnity company duly licensed to transact
business in West Virginia, the amount thereof to be
approved by the commissioner of banking; (c) to
determine from time to time the rate of interest which
shall be allowed on deposits and charged on loans; (d)
to fix the maximum number of shares which may be
held by, and the maximum amount which may be loaned
to, any one member; (e) to declare dividends; (f) to
recommend amendments to the bylaws; (g) to appoint
persons to fill vacancies in the board of directors or in
the credit committee until the election and qualification
of their successors; (h) to have charge of the investment
of the funds of the corporation; (i) to perform such other
duties as the members from time to time authorize.

No member of the board of directors or of the credit
or supervisory committee shall receive any compensa-
tion for his services as a member of such board or
committees.

The rates, terms and conditions of any loan or line of
credit made to an official, or on which an official is an
endorser or guarantor, shall not be more favorable than
the rates, terms or conditions for comparable loans or
lines of credit extended to any other credit union
member.

§31-10-11. Powers and duties of supervisory committee.

The supervisory committee shall inspect the securi-
ties, cash and accounts of the corporation and supervise
the acts of the board of directors, credit committee and
officers. At any time the supervisory committee, by a
unanimous vote, may suspend the credit committee or
any member thereof, or any member or members of the
board of directors, or any officer or officers elected by
the board, and by a majority vote they may call a
meeting of the shareholders to consider any violation of
this article or of the bylaws, or any practice of the
corporation which, in the opinion of such committee, is unsafe and unauthorized. Within seven days after the suspension of the credit committee, or any member thereof or of any director or officer, the supervisory committee shall cause notice to be given of a special meeting of the members to take action relative to such suspension. The supervisory committee shall fill vacancies in their own number until the next meeting of the members.

Annually, the supervisory committee shall make or cause to be made a thorough audit of the receipts, disbursements, income, assets and liabilities of the corporation for such fiscal year, and shall make a full report thereon to the directors. Such report shall be read at the annual meeting of the members and shall be filed and preserved with the records of the corporation.


Any credit union may, with the approval of the commissioner of banking, merge with another credit union, under the existing charter of the other credit union, pursuant to any plan agreed upon by a majority of each board of directors of each credit union joining in the merger, approved by the affirmative vote of a majority of the members of each merging credit union voting at a meeting duly called for such purpose, and consented to by any governmental agency or other organization insuring the accounts of the merging credit unions. The provisions of section seven of this article notwithstanding, a member of a credit union voting on the question of merger under the provisions of this section may cast such vote in person or by proxy. 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;

Such certificates, in duplicate, and a copy of the plan of merger agreed upon shall be forwarded to the commissioner of banking for a review. If approved, a copy of the certificate certified by him shall be returned to the merging credit unions within thirty days.

If a credit union seeking merger is insolvent or in danger of insolvency, the commissioner may approve a merger without the consent of the membership if a majority of the board of directors of each credit union approves a request for a merger.

Upon any such merger so effected, all property, property rights, and interest of the merged credit union shall vest in the surviving credit union without deed, endorsement or other instrument of transfer, and all debts, obligations 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 chartered under any other act.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within  

approved this the 30th day of  

1987.

Governor