

and financial status of such districts, although districts have incurred only organization expenses. 25 Atty. Gen. 679.

198.165 History: 1931 c. 50; Stats. 1931 s. 198.165.

198.167 History: 1931 c. 50; Stats. 1931 s. 198.167.

198.17 History: 1931 c. 50; Stats. 1931 s. 198.17.

198.18 History: 1931 c. 50; Stats. 1931 s. 198.18.

198.19 History: 1931 c. 50; Stats. 1931 s. 198.19.

198.20 History: 1931 c. 50; Stats. 1931 s. 198.20.

198.21 History: 1931 c. 50; Stats. 1931 s. 198.21; 1951 c. 247; 1951 c. 261 s. 10; 1953 c. 61.

198.22 History: 1931 c. 458; Stats. 1931 s. 198.22; 1933 c. 198; 1945 c. 332; 1947 c. 362 s. 2; 1947 c. 601; 1951 c. 261 s. 10; 1955 c. 408, 429, 546; 1963 c. 506; 1965 c. 614 s. 57 (1); 1965 c. 659 ss. 23 (2), 24 (9); 1969 c. 276 s. 588 (9); 1969 c. 366 s. 117 (2) (a).

CHAPTER 199.

Donor Annuities.

199.01 History: 1961 c. 90; Stats. 1961 s. 199.01.

199.02 History: 1961 c. 90; Stats. 1961 s. 199.02.

199.03 History: 1961 c. 90; Stats. 1961 s. 199.03.

199.04 History: 1961 c. 90, 682; Stats. 1961 s. 199.04.

CHAPTER 200.

Insurance Department.

200.03 History: 1933 c. 487 s. 4; 1933 c. 489 s. 1; Stats. 1933 s. 200.03; 1947 c. 413; 1949 c. 152, 197, 436; 1957 c. 555; 1959 c. 602; 1959 c. 659 s. 77, 79; 1961 c. 33, 397, 463, 562, 624; 1967 c. 26, 89; 1969 c. 276 ss. 517, 518; 1969 c. 337.

Editor's Note: 200.03, Stats. 1969, had its origin in 200.04 (4) and 201.15, Stats. 1931.

A subsequent commissioner of insurance is not foreclosed from refusing to renew the license of a foreign company to transact business in the state where its plan of its insurance is violative of the Wisconsin law, although a preceding commissioner granted a license under the same plan. *Duel v. State Farm Mut. Auto. Ins. Co.* 240 W 161, 1 NW (2d) 887, 2 NW (2d) 871.

The commissioner of insurance cannot require, as a condition of issuing a license to do business in this state, that a foreign mutual automobile liability insurance company refund to its Wisconsin policyholders so-called "life membership fees" previously exacted from them. *State Farm Mutual Ins. Co. v. Duel*, 244 W 429, 12 NW (2d) 696.

200.06 History: 1870 c. 56 s. 23; 1878 c. 214; R. S. 1878 s. 1969; Stats. 1898 s. 1969; 1923 c. 291 s. 3; Stats. 1923 s. 200.06; 1929 c. 482 s. 6; 1933 c. 487 s. 7; 1959 c. 86.

200.07 History: 1870 c. 56 s. 27; 1878 c. 214; R. S. 1878 s. 1970; Stats. 1898 s. 1970; 1923 c. 291 s. 3; Stats. 1923 s. 200.07; 1933 c. 487 s. 8.

Revisor's Note, 1933: The law is not changed, except that a certified copy is filed in place of the original resolution. The original belongs in the company's files. [Bill 50-S, s. 8]

200.17 History: 1911 c. 578; Stats. 1911 s. 1926m; 1915 c. 604 s. 81; 1917 c. 66; 1919 c. 671 s. 31; 1923 c. 291 s. 3; Stats. 1923 s. 200.17; 1927 c. 85, 113; 1933 c. 487 s. 16; 1941 c. 126; 1947 c. 9 s. 31; 1957 c. 453; 1959 c. 659 s. 79; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 276 s. 616.

Premiums upon which fire department dues are payable under 200.17 (2) and 201.59 (1) (a), Stats. 1945, include all assessments levied during the year. 34 Atty. Gen. 373.

200.26 History: 1959 c. 602, 641; Stats. 1959 s. 200.26; 1961 c. 562, 624; 1963 c. 299, 314; 1963 c. 459 s. 47; 1965 c. 433 s. 121; 1967 c. 73, 89; 1967 c. 291 s. 14; 1969 c. 336 s. 176; 1969 c. 337 ss. 23, 24, 88.

200.50 History: 1969 c. 485; Stats. 1969 s. 200.50.

CHAPTER 201.

Insurance Corporations in General.

201.01 History: 1911 c. 152; Stats. 1911 s. 1895m; 1923 c. 291 s. 3; Stats. 1923 s. 201.01; 1933 c. 487 s. 27; 1969 c. 276.

201.02 History: 1850 c. 232 s. 1; R. S. 1858 c. 72 s. 1; 1870 c. 56 s. 1, 17; 1878 c. 214; R. S. 1878 s. 1896, 1908; Stats. 1898 s. 1896, 1908; 1909 c. 460; Stats. 1911 s. 1896, 1897b, 1897c, 1908; 1919 c. 101; 1919 c. 425 s. 3, 4; 1923 c. 87; 1923 c. 291 s. 3; Stats. 1923 s. 201.02, 201.06, 201.07, 201.28; 1925 c. 325 s. 1; 1933 c. 487 s. 28; Stats. 1933 s. 201.02; 1935 c. 216; 1957 c. 72; 1963 c. 266, 382.

Revisor's Note, 1933: The law is not changed. Subsection (2) of 201.06 is a duplication of part of 180.02 (1) (b). Subsection (6) is from 201.13 (4). [Bill 50-S, s. 28]

On exercises of police power see notes to sec. 1, art. I; on impairment of contracts see notes to sec. 12, art. I; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; and on the insurance department see notes to various sections of ch. 200.

As to the use of a name by an insurance corporation, see *Independent Order of Foresters v. Insurance Commissioner*, 98 W 94, 73 NW 326.

A statute authorizing the formation of corporations to insure "all kinds of grain, fruits, hops and legumen" does not authorize the insurance of tobacco; but where the articles and by-laws of a mutual company were printed on each policy and stated that one of the purposes of the corporation was to insure tobacco, the policyholders took their policies

charged with knowledge that the company proposed to insure tobacco and that they could not question its acts in that regard. Where the articles of incorporation were not signed at the end and there was no certificate of acknowledgment attached, but the incorporators placed their signatures in the body of the instrument and its preamble recited that they acknowledged and adopted the articles and they organized and commenced the transaction of a large business in the corporate name, the corporation was at least a de facto one. *Gilman v. Druse*, 111 W 400, 87 NW 557.

201.02 (3) (d), created by ch. 216, Laws 1935, requiring that the articles of incorporation of a mutual insurance company contain certain provisions relating to the liability of policyholders for losses and expenses incurred, did not apply to the articles of incorporation of a company organized prior to the enactment thereof. In re *Wisconsin Mut. Ins. Co.* 241 W 394, 6 NW (2d) 330.

A corporation organized for the purpose of paying sick, funeral and other similar benefits to those members contributing is an insurance organization. 12 Atty. Gen. 587.

Examination by the commissioner of insurance on the amendment of articles increasing capital stock of a corporation is limited to subscription to and payment for stock, expenses and assets. 12 Atty. Gen. 645.

An insurance corporation of this state organized upon the stock plan may issue preferred stock, if the preferred stock plan conforms to all requirements of law relating to the particular insurance corporation. Liabilities of preferred stock will be the same as liabilities of common stock, and corporate obligations to others than stockholders cannot be changed by preferred stock plan. 14 Atty. Gen. 504.

An association wherein members pay original membership fees and are assessed \$1 upon the death of any member upon pain of forfeiture of membership, assessments so levied being paid to the named beneficiary of the deceased member, constitutes the business of insurance and such association is subject to the insurance laws of this state and must file its articles with the insurance commissioner. 20 Atty. Gen. 607.

The secretary of state may not accept articles of incorporation that contemplate the transaction of insurance business. The articles of incorporation should be filed with the insurance commissioner. 21 Atty. Gen. 284.

Policyholders of a mutual insurance company organized pursuant to 201.02 may not legally adopt a resolution at an annual meeting of policyholders providing for a refund or repayment to directors of the company of the amounts contributed by them to its surplus, there being no attempt by said directors to lend said amounts to the company and to take notes of the company payable out of surplus or notes which were general obligations of the company not payable out of surplus, as provided by 201.17. 33 Atty. Gen. 220.

Management contracts in the insurance industry. *Sinykin and Abrahamson*, 1969 WLR 693.

Fact v. fiction: who owns mutual insurance companies. *Hetherington*, 1969 WLR 1068.

201.025 History: 1965 c. 308; Stats. 1965 s. 201.025.

201.03 History: 1915 c. 30; Stats. 1915 s. 1896m; 1917 c. 655; 1923 c. 291 s. 3; Stats. 1923 s. 201.03; 1933 c. 487 s. 29; 1937 c. 203; 1941 c. 127; 1945 c. 82, 101; 1947 c. 174, 470; 1961 c. 463, 555, 562, 624; 1965 c. 252; 1967 c. 89 s. 18; 1967 c. 210; 1969 c. 276 s. 597 (2).

201.03 (9), created by ch. 127, Laws 1941, applies to a mutual company organized and existing at the time of the enactment of the subsection, and not merely to companies organized thereafter. *Cheese Makers Mut. Cas. Co. v. Duel*, 243 W 406, 10 NW (2d) 125.

Under sec. 1896m, Stats. 1919, notice of a proposed amendment of the articles of organization of a mutual fire insurance company must contain an exact copy of the proposed amendment, otherwise such amendment cannot legally be acted upon. 9 Atty. Gen. 75.

201.03 (1) (a), Stats. 1939, does not require that the applicants pay the required amount of premiums in cash without borrowing. 28 Atty. Gen. 541.

201.03 (1) and (2), Stats. 1937, are not applicable to mutual insurance companies organized before the effective date of ch. 203, Laws 1937, which created 201.03, Stats. 1937. 33 Atty. Gen. 220.

201.04 History: 1850 c. 232 s. 10; R. S. 1858 c. 72 s. 10; 1870 c. 56 s. 3, 4, 25; 1878 c. 214; R. S. 1878 s. 1897; 1887 c. 33; Ann. Stats. 1889 s. 1897; Stats. 1898 s. 1897; 1909 c. 460; 1911 c. 275; 1923 c. 291 s. 3; Stats. 1923 s. 201.04; 1929 c. 317; 1931 c. 151; 1931 c. 358; 1933 c. 487 s. 30; 1935 c. 203; 1937 c. 41, 209, 217; 1939 c. 246; 1943 c. 120, 143, 307; 1945 c. 289, 351; 1947 c. 90; 1949 c. 458; 1951 c. 269; 1953 c. 418; 1957 c. 321, 408, 417; 1959 c. 353; 1961 c. 354, 463, 624; 1963 c. 502; 1965 c. 334.

Articles authorizing an insurance company to write fire insurance do not authorize the writing of tempest and cyclone insurance. 7 Atty. Gen. 389.

An association formed by members of a religious organization, which, in consideration of fixed weekly payments, agrees to pay its members \$5 weekly, and in case of death to pay members' heirs \$425 for funeral expenses, is doing an insurance business, and is subject to all laws regulating the transaction of insurance business. 8 Atty. Gen. 95.

Whether the business being done is insurance is to be determined by the character of that business and not by what the parties denominate it. The insurance laws of this state apply to individuals, copartners and voluntary associations as well as to corporations. That the only method of enforcing payment of assessments is by depriving the delinquent of all benefits under his certificate does not prevent the agreement from being a contract of insurance. 10 Atty. Gen. 178.

A partnership may engage in the title guaranty business without complying with 180.19 to 180.215, Stats. 1923, and may use in its name the words "Title Guaranty Company." The title guaranty business is insurance, and a partnership engaged therein is subject to the insurance laws and jurisdiction of the insurance department. 14 Atty. Gen. 171.

A contract whereby a seller agrees that ar-

ticles sold on the instalment plan, the obligation to pay being personal to the buyer, with a provision that in case of the buyer's death the remaining payments will be discharged and in case the buyer is unable to follow his usual vocation payments during such period will be discharged, is a contract of insurance within the meaning of 209.11, Stats. 1925. 15 Atty. Gen. 354.

An agreement whereby a company agrees to indemnify an owner of machinery against damage caused by the breakdown of machinery is an insurance contract, and the company entering into such contract is an insurance company within the meaning of 209.11, Stats. 1925. 15 Atty. Gen. 368.

A provision in a physician's and dentist's liability policy indemnifying against any claim or suit for damages, assault, slander, libel, undue familiarity, anaesthesia, hallucination, personal restraint, malicious prosecution, replevin of property, or any other claim or suit for damages, alleging breach of professional duty, and further indemnifying against any claim or suit for return of professional fees is against public policy and therefore illegal. 18 Atty. Gen. 124.

Prepayment at a fixed yearly or monthly rate for future medical services does not constitute insurance. 25 Atty. Gen. 192.

A contract whereby a company, for an annual fee, furnishes a check or money order protection plan, and as a part thereof agrees to purchase at the face amount, but not to exceed \$50, all dishonored checks and money orders cashed by a merchant during a year, is a contract of insurance. A similar contract whereby the company instead agrees to pursue collection of such dishonored checks or money orders, without charge, is likewise a contract of insurance. 39 Atty. Gen. 509.

Used-car "warranty" plans are insurance contracts and their issuance, as outlined, is engaging in the business of insurance. 47 Atty. Gen. 242.

A non-transferable certificate, issued through a motor vehicle dealer, by a distributor of a brand of lubricants to the purchaser of a new car, for repair or replacement of parts due to failure from exclusive use of products, is a warranty and therefore such issuance is not the business of insurance. 47 Atty. Gen. 260.

A contract entered into by a company actually engaged in television repair, for service or for service and parts for a stated price which bears a reasonable proportion to services rendered is not insurance. A company not in the service business, which contracts with others to provide service, offers indemnification, or covers only replacement of parts, is offering an insurance contract. 48 Atty. Gen. 168.

Proposed insurance which would indemnify an employe for his attorney fees upon his prosecution of a workmen's compensation claim is permissible under 201.04, Stats. 1967. 57 Atty. Gen. 87.

201.045 History: 1961 c. 562; Stats. 1961 s. 201.045; 1969 c. 337.

201.05 History: 1909 c. 460; 1911 c. 275; Stats. 1911 s. 1897a; 1915 c. 73; 1917 c. 106 s. 1;

1919 c. 70, 536; 1923 c. 291 s. 3; Stats. 1923 s. 201.05; 1925 c. 377; 1931 c. 358 s. 3; 1933 c. 145; 1933 c. 487 s. 31; 1945 c. 282; 1947 c. 337; 1949 c. 508; 1951 c. 269 s. 3 to 8; 1955 c. 433; 1957 c. 174, 188, 455; 1957 c. 672 s. 75; 1961 c. 463, 611; 1963 c. 6, 502; 1969 c. 346.

A fire insurance company, under provisions of the statutes, can issue coverage against loss by tornado, windstorm or cyclone, by attaching a rider to a standard fire insurance policy. 17 Atty. Gen. 105.

License fees for insurance companies are levied upon the business transacted and not upon the company. Companies transacting more than one class of business must pay the license fee for each class. 38 Atty. Gen. 474.

201.06 History: 1947 c. 365; Stats. 1947 s. 201.06.

201.065 History: 1969 c. 346; Stats. 1969 s. 201.065.

201.07 History: 1919 c. 101; Stats. 1919 s. 1897c sub. 2 (d); 1923 c. 291 s. 3; Stats. 1923 s. 201.07 (2) (d); 1925 c. 325 s. 1; 1933 c. 120 s. 3; 1933 c. 487 s. 28, 32; Stats. 1933 s. 201.07; 1957 c. 174; 1961 c. 463; 1965 c. 586.

A nonassessable policy issued by a domestic mutual company while its surplus is maintained is exempt from assessments. 16 Atty. Gen. 716.

A nonassessable policy issued under this section may not be assessed when the surplus of the company falls below the amount required to be accumulated before issuance of such policies. (16 Atty. Gen. 716 confirmed.) 24 Atty. Gen. 66.

Domestic mutual companies may issue non-assessable policies only by complying with the provisions of this section. 26 Atty. Gen. 216.

201.075 History: 1961 c. 463; Stats. 1961 s. 201.075.

201.08 History: 1909 c. 460; Stats. 1911 s. 1897d; 1923 c. 291 s. 3; Stats. 1923 s. 201.08; 1933 c. 236 s. 2; 1933 c. 487 s. 33; 1969 c. 337.

Where the act incorporating a mutual company conferred upon the board of directors power to enact, repeal or amend bylaws not inconsistent with the provisions of the charter, that body had power to pass a bylaw providing that the certificate of membership should be rendered void in case the insured committed suicide. *Hughes v. Wisconsin O. F. M. L. Ins. Co.* 98 W 292, 73 NW 1015.

One whose certificate of membership in a mutual benefit company makes compliance with all the bylaws of the order then existing, or subsequently enacted, a condition precedent to participation in its benefits is bound by a bylaw adopted after his admission, providing that if any member should engage in any occupation therein prohibited, the certificate should be void. *Loeffler v. Modern Woodmen*, 100 W 79, 75 NW 1012.

With respect to mutual insurance companies, other than town mutuals, the commissioner of insurance has no authority to approve or disapprove bylaws and must accept any bylaws or amendments thereto submitted to him for filing. 56 Atty. Gen. 71.

201.09 History: 1945 c. 63; Stats. 1945 s. 201.09.

201.10 History: 1911 c. 280; 1911 c. 287; Stats. 1911 s. 1897f; 1915 c. 173; 1923 c. 291 s. 3; Stats. 1923 s. 201.10; 1933 c. 487 s. 35; 1969 c. 337.

A contract by the promoters can be enforced even though it results in the payment of more than 15%. The remedies for violation of 201.10 do not include penalizing persons dealing with the promoter. *Ehlers-Mann & Associates v. Madison A. G. Ins. Corp.* 28 W (2d) 12, 135 NW (2d) 815.

201.105 History: 1965 c. 113; Stats. 1965 s. 201.105.

201.106 History: 1965 c. 113; Stats. 1965 s. 201.106.

201.11 History: 1909 c. 460; 1911 c. 275 s. 3; Stats. 1911 s. 1897g; 1915 c. 48; 1917 c. 79; 1919 c. 655 s. 1; Stats. 1919 s. 1897g, 1966—33c; 1923 c. 291 s. 3; Stats. 1923 s. 201.11, 204.04; 1931 c. 358 s. 3; 1933 c. 120, 142; 1933 c. 487 s. 36, 44; 1933 c. 489 s. 3, 4; 1933 c. 494 s. 8; Stats. 1933 s. 201.11; 1935 c. 54, 478; 1949 c. 508; 1951 c. 269; 1963 c. 502; 1965 c. 586.

The term "such company" as found in 201.11 (1) refers to any stock insurance company. *State v. Mortensen*, 224 W 398, 272 NW 457.

As to foreign corporations, capital stock requirements are determined by the character of business transacted by the company in any state. 16 Atty. Gen. 529.

Insurance companies writing fidelity insurance in addition to other kinds of insurance are required under 201.11 (2) and 204.041, Stats. 1939, to have capital stock of \$250,000 in addition to capital stock which is required for transacting other types of insurance business under the provisions of 201.11 (1). Insurance companies transacting other kinds of insurance in addition to that of surety insurance must compute capital stock requirements upon the basis of requirements for insurance other than surety insurance and must add requirements for surety insurance. 30 Atty. Gen. 65.

For construction of 201.11 (2) (b), Stats. 1965, as to increased capital required of old and new companies desiring to write automobile insurance see 55 Atty. Gen. 79.

201.12 History: 1909 c. 460; Stats. 1911 s. 1897i; 1923 c. 291 s. 3; Stats. 1923 s. 201.12; 1933 c. 487 s. 37.

201.13 History: 1911 c. 158; Stats. 1911 s. 1897k; 1923 c. 291 s. 3; Stats. 1923 s. 201.13; 1933 c. 487 s. 38; 1963 c. 382; 1967 c. 89.

For all except corporate purposes, the property of a mutual insurance company, the same as that of any other corporation, belongs to its members whether they are stockholders in the technical sense or in the broader one which includes policyholders in such a company. *Huber v. Martin*, 127 W 412, 105 NW 1031.

201.135 History: 1925 c. 325 s. 2; Stats. 1925 s. 201.135; 1933 c. 487 s. 39; 1957 c. 123.

Revisor's Note, 1933: There may be conflict between 201.135 and 206.36. Section 201.135 is last enacted. [Bill 50-S, s. 39]

201.14 History: 1963 c. 382; Stats. 1963 s. 201.14; 1965 c. 252.

Under 201.14, Stats. 1967, the commissioner of insurance cannot disapprove a proposed reorganization of a mutual insurance corporation into a stock corporation solely on the basis of perpetuating interlocking directorates and intercorporate connections, but the commissioner has broad power and has the duty to disapprove or modify reorganization whenever necessary to protect the interests of policyholders. 57 Atty. Gen. 23.

201.16 History: 1850 c. 232 s. 5, 6; R. S. 1858 c. 72 s. 5, 6; 1870 c. 56 s. 6; R. S. 1878 s. 1898; Stats. 1898 s. 1898; 1909 c. 460; 1913 c. 196, 277; 1919 c. 425 s. 6; 1923 c. 291 s. 3; Stats. 1923 s. 201.16; 1933 c. 487 s. 42; 1955 c. 433; 1967 c. 89.

A stock company that reinsures part of its risks with a commercial mutual company does not become a member of the mutual company so as to be subject to assessment. (*Pella Farmers Mut. Ins. Co. v. Hartland R. T. Ins. Co.* 26 W (2d) 29, distinguished.) *Peerless Ins. Co. v. Manson*, 27 W (2d) 601, 135 NW (2d) 258.

The term "risk" as used in fire insurance statutes has reference to such property as may be subject to one and the same fire hazard. 6 Atty. Gen. 114.

201.17 History: 1909 c. 460; 1911 c. 275 s. 3; Stats. 1911 s. 1897g subs. 3, 4; 1915 c. 48; 1923 c. 291 s. 3; Stats. 1923 s. 201.11 (3), (4); 1933 c. 142; 1933 c. 487 s. 44; 1933 c. 489 s. 4; Stats. 1933 s. 201.17; 1943 c. 199; 1961 c. 463; 1969 c. 71 s. 3.

Holders of "surplus notes" of a mutual insurance company, executed pursuant to 201.17 (2), payable by their terms out of the "surplus earnings" of the company, and payable by the terms of the statute only from the "surplus over all other liabilities," are not entitled to be paid out of a fund constituted wholly of the excess of assessments collected by the commissioner of insurance, liquidating the defunct company, from policyholders for the payment of losses incurred while they were members and for expenses of liquidation. *In re Mid-Continent Mut. Ins. Co.* 246 W 460, 17 NW (2d) 602.

201.18 History: 1911 c. 235; Stats. 1911 s. 1899; 1923 c. 291 s. 3; Stats. 1923 s. 201.18; 1929 c. 246; 1933 c. 487 s. 45; 1945 c. 488; 1947 c. 416; 1949 c. 366; 1955 c. 366, 433; 1969 c. 337.

A plan whereby a foreign insurance company exacts from each insured, in addition to the lower-than-conference-rate charge which the company denominates a "premium," a non-returnable so-called life membership fee for which the company purports to give no insurance but with which certain expenses customarily allocated to premium in the writing of insurance are defrayed, constitutes in fact a splitting of the "premium" as that term is used in the reserve statutes, 201.18 (1) and 204.27, Stats. 1943, and violates the statutory requirement that there shall be set up an "unearned premium" reserve computed on a percentage of "premiums," in that, not only is no unearned premiums or any other reserve set up against the membership fee by the company, but also the calculation of proper re-

serves is made difficult because of the nature of the right or privilege given to the insured for the membership fee, namely, to reinstate or continue his insurance so long as he lives and remains a desirable risk. The reserve statutes do not permit insurance companies to allocate a portion of the expenses of doing business for some sort of privilege given by a so-called membership fee and to designate the rest of the cost of insurance a "premium," since to do this would enable insurers to set their own reserve requirements by redefining "premium"; and the situation is not helped by so arranging the contract that the fee carries no insurance or other liability, since this destroys the statutory scheme for reserves quite as effectively as any other plan for splitting the premium. *Duel v. State Farm Mut. Auto. Ins. Co.* 240 W 161, 1 NW (2d) 887, 2 NW (2d) 871.

For the purposes of 201.18 (1), Stats. 1943, the "life membership fees" exacted from policyholders are a part of the "premiums" paid by them, so that, before the company may have a license to do business in this state, it must set aside an "unearned premium" reserve comprising a percentage of all such fees and hence the operation of the company in this state on a basis excluding from the calculation its unearned-premium reserve membership fees exacted in other states, does not meet the requirements of the statute. *State Farm Mut. Auto. Ins. Co. v. Duel*, 244 W 429, 12 NW (2d) 696, *Affirmed State Farm Mut. Auto. Ins. Co. v. Duel*, 324 US 154.

A mutual casualty company, reinsured by another mutual casualty company, was not entitled to compel the liquidator of the insolvent insuring company to pay, out of assessments levied on the policyholders of the insolvent company, the unearned premium on the reinsurance contract, which was canceled by operation of law by the order for liquidation of the insuring company. *In re Wisconsin Mut. Ins. Co.* 247 W 485, 19 NW (2d) 889.

201.185 History: 1955 c. 433; Stats. 1955 s. 201.185.

201.19 History: 1911 c. 154; Stats. 1911 s. 1900; 1913 c. 127; 1923 c. 291 s. 3; Stats. 1923 s. 201.19; 1933 c. 487 s. 46; 1963 c. 54.

A provision in a policy prohibiting the continuance of repairs beyond 15 days is suspended by an attached slip permitting repairs and alterations, but containing no limitation of the time for making them. Insurance contracts are construed most strongly against the insurer, especially where a forfeiture is involved. *Jaeger v. Farmers' M. T. F. Ins. Co.* 183 W 313, 197 NW 719.

As to a policy drafted by the defendant company, but not prescribed by statute, "it is a familiar rule that in case of doubt or ambiguity the language of an insurance policy should be construed most strongly against the insurer." When the policy is capable of 2 meanings, that which is most favorable to the insured is always to be adopted. *Vaudreuil L. Co. v. Aetna C. & S. Co.* 201 W 521, 230 NW 704.

Notwithstanding a one-year limitation in the policy, an action may be brought by the insured to recover the excess paid by him above the coverage in satisfaction of judgments for

injuries obtained against the insured to recover from the insurer such excess on the ground that the insurer acted in bad faith toward the insured in failing to settle the claim for less than the coverage. *Hilker v. Western Auto. Ins. Co.* 204 W 1, 231 NW 257.

201.19, Stats. 1925, is inapplicable to a provision in an indemnity policy invalidating a claim not filed within 3 months after the expiration of the terms covered in the policy. *Mutual B. & S. Asso. v. American S. Co.* 214 W 423, 253 NW 407.

See note to 203.01, on time limit on suit, citing *Riteway Builders, Inc. v. First National Ins. Co.* 22 W (2d) 418, 126 NW (2d) 24.

201.20 History: 1915 c. 256; Stats. 1915 s. 1900f; 1923 c. 291 s. 3; Stats. 1923 s. 201.20; 1933 c. 487 s. 47; 1943 c. 396.

201.20 and 203.22, Stats. 1931, are independent of each other, the former providing for carrying a portion of risk by the insured and the latter for the sharing of loss, and are not in conflict. 20 Atty. Gen. 605.

201.21 History: 1909 c. 460; Stats. 1911 s. 1901j; 1919 c. 425 s. 7; 1921 c. 298; 1923 c. 291 s. 3; Stats. 1923 s. 201.21; 1933 c. 487 s. 48.

201.22 History: 1937 c. 223; Stats. 1937 s. 201.22; 1949 c. 222, 586, 643; 1957 c. 276; 1969 c. 144 s. 27.

201.24 History: 1850 c. 232 s. 9, 17; R. S. 1858 c. 72 s. 9, 17; 1870 c. 56 s. 5, 9; 1878 c. 214; R. S. 1878 s. 1902; Stats. 1898 s. 1902; 1911 c. 157; 1923 c. 291 s. 3; Stats. 1923 s. 201.24; 1933 c. 487 s. 50; 1937 c. 178; 1945 c. 517; 1953 c. 571; 1955 c. 433; 1961 c. 562; 1967 c. 171; 1969 c. 235.

A fraternal benefit society could lawfully acquire a home-office building containing more space than it immediately required for a home office, and could purchase a long-term leasehold for a home office, and it could do this by entering into a contract to purchase the stock of a corporation whose only asset and business was the ownership and operation of a building appropriate and suitable for a home-office building for the society, so that the society was entitled to specific performance of such contract, and particularly where the society had also entered into an agreement to purchase the fee. A long-term leasehold, at least a leasehold for more than 3 years, is "real estate" within the meaning of 201.24. *Catholic Knights of Wisconsin v. Levy*, 261 W 284, 53 NW (2d) 1.

201.25 History: 1850 c. 232 s. 8; R. S. 1858 c. 72 s. 8; 1870 c. 56 s. 8; R. S. 1878 s. 1903; Stats. 1898 s. 1903; 1909 c. 267; 1911 c. 157 s. 2; 1913 c. 553; 1921 c. 465; 1923 c. 291 s. 3; Stats. 1923 s. 201.25; 1931 c. 30; 1933 c. 20, 321; 1933 c. 487 s. 51; 1939 c. 522; 1941 c. 50; 1943 c. 341; 1943 c. 553 s. 31; 1945 c. 163, 436; 1947 c. 325; 1947 c. 411 s. 6 (215.30 (5)); 1947 c. 612 s. 1; 1949 c. 57, 175; 1953 c. 312, 355, 648; 1955 c. 89, 90, 93, 366; 1955 c. 433 s. 6 to 8; 1957 c. 133, 169, 373; 1959 c. 235; 1961 c. 562; 1963 c. 266.

While a domestic insurance company may invest its surplus funds in real estate mortgages under 201.25 and 219.01, Stats. 1937, it may not use its surplus funds as capital for conducting what is essentially a real estate

mortgage brokerage business. 28 Atty. Gen. 49.

201.25 (1) (n), Stats. 1963, does not authorize investing 10% of the admitted assets of an insurance company contrary to the restrictions imposed by 201.24 (4) (b). 53 Atty. Gen. 152.

An insurance company may not acquire a controlling interest in a corporation engaged in a business which insurance companies are not authorized to conduct. 56 Atty. Gen. 62.

201.27 History: 1850 c. 232 s. 2; R. S. 1858 c. 72 s. 2; 1870 c. 56 s. 2, 6; 1875 c. 314 s. 8; R. S. 1878 s. 1905; 1897 c. 277; Stats. 1898 s. 1905, 1966—48; 1899 c. 190 s. 2; 1903 c. 394; Supl. 1906 s. 1905a, 1919b; 1913 c. 637; Stats. 1913 s. 1905 sub. 1, 4; 1919 c. 425 s. 8; 1923 c. 291 s. 3; Stats. 1923 s. 201.27 (1), (4); 1933 c. 487 s. 53; Stats. 1933 s. 201.27; 1967 c. 89, 246, 347.

A bond given by a domestic insurance company which reinsured its risks in a foreign insurance company to protect such reinsurance, title to which bond passed to the reinsurer and to its assignee for the benefit of creditors, may be resorted to by policyholders for whose benefit it was pledged and deposited with the state treasurer, notwithstanding the assignment made by the reinsurer was a foreign one. The courts of this state have jurisdiction of a creditor's bill to reach such a bond. *Hughes v. Hunner*, 91 W 116, 64 NW 887.

201.29 History: 1899 c. 166 s. 2; Supl. 1906 s. 1908a; 1911 c. 663 s. 383; 1923 c. 291 s. 3; Stats. 1923 s. 201.29; 1933 c. 487 s. 54; 1949 c. 55.

201.30 History: 1911 c. 66; 1911 c. 664 s. 5; Stats. 1911 s. 1908m; 1913 c. 662; 1923 c. 291 s. 3; Stats. 1923 s. 201.30; 1933 c. 487 s. 55; 1961 c. 562; 1965 c. 252.

Revisor's Note, 1933: Section 201.30 was created by chapter 66, Laws 1911. The reference there in (6) was to chapters 86 and 89, Stats. At that time chapter 89 contained all the provisions relating to insurance corporations. The present reference to chapter 200 is misleading. It better be to chapter 201 and better still not made at all. The new company is merely a domestic capital stock insurance corporation. That goes without (6). See 207.06 to 207.12. [Bill 50-S, s. 55]

A "merger" and a "consolidation" do not mean the same thing. A merger exists where one corporation remains in being and merges itself into one or more other corporations; but the effect of a consolidation is to work a dissolution of the companies consolidating and to create a new one out of the elements of the former ones. If the statutory requirements are complied with such combinations are not contrary to the public policy of the state. A transaction between a domestic and a foreign insurance company which contemplated the operation of the companies under a common management, but as separate corporations, amounted only to an exchange of stock between the stockholders of the corporations merely, and not a merger or a consolidation within the meaning of 206.38, or 201.30. *Union Ind. Co. v. Smith*, 187 W 528, 205 NW 492.

201.301 History: 1955 c. 190; Stats. 1955 s. 201.301; 1957 c. 672; 1969 c. 71 s. 3; 1969 c. 337 s. 88.

201.31 History: 1901 c. 232 s. 1; 1905 c. 206 s. 1; Supl. 1906 s. 1914a; 1923 c. 291 s. 3; Stats. 1923 s. 201.37; 1933 c. 487 s. 56; Stats. 1933 s. 201.31; 1961 c. 562.

201.32 History: 1850 c. 232 s. 7; R. S. 1858 c. 72 s. 7; 1870 c. 56 s. 22; 1877 c. 233; 1878 c. 214; R. S. 1878 s. 1915; 1889 c. 355; Ann. Stats. 1889 s. 1915; Stats. 1898 s. 1915; 1911 c. 277; Spl. S. 1912 c. 3; 1913 c. 210, 637; 1923 c. 291 s. 3; Stats. 1923 s. 201.38; 1933 c. 487 s. 57; Stats. 1933 s. 201.32; 1969 c. 337.

Revisor's Note, 1933: Subsection (1) (c) is made 201.33. Subsection (1) (d) is consolidated with 201.39 (14); (2) (b) is in 200.03 (15). The provision requiring the company to surrender its right to remove actions from the state to the United States courts is omitted because it is unconstitutional. It does not bind the company. *Wisconsin v. Philadelphia & R. C. & I. Co.* 241 US 329; *Terral v. Burke Cons. Co.* 257 US 529; *Frost Trucking Co. v. Railroad Comm.* 271 US 583. The appointment of an attorney to make service on is new 200.03 (16). The examination of foreign companies is covered by old 201.40, new 201.34. The manner of service on foreign companies is covered by 201.43. [Bill 50-S, s. 57]

An action cannot be maintained by a foreign insurance company upon a contract made with it, unless it has complied with the statute by making the statement of its condition required before entering into the contract. *Aetna Ins. Co. v. Harvey*, 11 W 394.

Compliance with statutory conditions for transacting business in the state is not necessary in order to sue on a bond and mortgage given to a foreign company. *Charter O. L. Ins. Co. v. Sawyer*, 44 W 387.

An assessment made by a court of another state upon the premium notes held by a foreign mutual insurance company in the hands of a receiver is conclusive upon members of the company in this state. (*Great W. T. Co. v. Burnham*, 79 W 47, 47 NW 373, limited.) *Parker v. Stoughton M. Co.* 91 W 174, 64 NW 751.

A company organized under the laws of this state may make here a contract for the insurance of property owned by a corporation of this state the situs of which is in another state, notwithstanding such company is not authorized to do business in the state where such property is situated. *Seamans v. Knapp-Stout & Co.* 89 W 171, 61 NW 757.

A contract insuring property within this state made without the state by a foreign company which has not complied with secs. 1915-1919, R. S. 1878, is within the prohibition of sec. 1915, and no action on such contract to recover an assessment made against the insured by such company can be maintained in the courts of this state. *Rose v. Kimberly & Clark Co.* 89 W 545, 62 NW 526.

A foreign insurance company which does not comply with the terms of the law in regard to writing insurance in Wisconsin cannot use that fact to avoid liability upon a policy written by it upon the life of a resi-

dent of the state. *Corbett v. Physicians' Cas. Asso.* 135 W 505, 115 NW 365.

A state may not, in imposing conditions upon the privilege of a foreign corporation's doing business in the state, exact from it a waiver of the exercise of its constitutional right to resort to the federal courts, or thereafter withdraw the privilege of doing business because of its exercise of such right, whether waived in advance or not. *State ex rel. Aetna Ins. Co. v. Fowler*, 196 W 451, 220 NW 534.

A receiver of an insolvent foreign insurance company cannot bring suits upon its policies in the courts of Wisconsin against its citizens. 1904 Atty. Gen. 168.

The insurance commissioner should treat a summons on a foreign nonlicensed insurance company in the same manner that he treats summonses on foreign licensed insurance companies. 4 Atty. Gen. 745.

A foreign insurance company loaning money on real estate in Wisconsin is not taking risks or transacting any business of insurance in this state. 11 Atty. Gen. 490.

A life and accident insurance company, incorporated as an assessment association in Nebraska, which satisfies solvency and expense requirements imposed by this state upon domestic mutual insurance companies, may be licensed to transact business in Wisconsin. Failure to issue such license places the director of insurance of Nebraska in position to invoke the retaliatory insurance law authorizing him to cancel licenses of Wisconsin insurance companies doing business in that state. 27 Atty. Gen. 714.

201.33 History: Stats. 1931 s. 201.38 (1) (c); 1933 c. 487 s. 58; Stats. 1933 s. 201.33.

201.34 History: 1870 c. 56 s. 22; 1871 c. 13 s. 3; 1878 c. 214; R. S. 1878 s. 1916; Stats. 1898 s. 1916; 1899 c. 190 s. 3; Supl. 1906 s. 1919c; 1913 c. 637; Stats. 1913 s. 1916; 1919 c. 425 s. 9; 1923 c. 291 s. 3; Stats. 1923 s. 201.40; 1927 c. 443; 1933 c. 34; 1933 c. 487 s. 4, 59; Stats. 1933 s. 201.34; 1961 c. 562; 1969 c. 337.

Revisor's Note, 1933: Revocation of license and certificates are provided for in 201.41 (2); (3) is made (4) of 200.03. [Bill 50-S, s. 59]

Foreign corporations may transact in this state any business authorized by their charters and not inconsistent with the laws and policy of the state. *Continental Ins. Co. v. Cross*, 18 W 109.

Under the act regulating mutual benefit companies (ch. 418, Laws 1891) a foreign company which complied with its terms was entitled as a matter of right to a license to do business here. *State ex rel. Coenant M. B. Asso. v. Root*, 83 W 667, 54 NW 33.

201.34 (1) vests in the commissioner of insurance the power and duty to refuse to license or to relicense an insurance company in any case where it has failed to comply with all provisions of the law, and particularly where its practices and methods are definitely illegal under the statutes. *Duel v. State Farm Mut. Auto. Ins. Co.* 240 W 161, 1 NW (2d) 887, 2 NW (2d) 871.

A foreign insurance company has no right to conduct insurance business in this state until it is licensed as provided by 201.40, Stats. 1925. When so licensed, that license shall be

renewed from year to year when the insurance commissioner determines facts and conditions exist as prescribed by the statute for renewal; he has no discretionary power to refuse a license if he finds such facts and conditions exist. 16 Atty. Gen. 167.

The insurance commissioner has the right to refuse admission of a nonresident insurance company where its capital stock has been purchased and paid for by some other insurance company without adding capital to the insurance business, if, under the circumstances he cannot say that the interests of the people of the state are not jeopardized by dealing with such company. 16 Atty. Gen. 459.

On the right of the insurance commissioner to refuse a license to an Illinois mutual insurance company which issues nonassessable policies to citizens of Illinois and assessable policies to citizens of Wisconsin see 16 Atty. Gen. 476.

The insurance commissioner can refuse a license, to do health and accident insurance business, to a foreign corporation with capital stock of \$100,000 doing life, health and accident insurance business in its own state, if he cannot determine that because of that practice people of this state will not be jeopardized by dealing with such corporation. 16 Atty. Gen. 529.

201.37 History: 1939 c. 38; Stats. 1939 s. 201.37; 1965 c. 334.

201.39 History: 1913 c. 210; Stats. 1913 s. 1915m; 1917 c. 387; 1919 c. 87; 1923 c. 291 s. 3; Stats. 1923 s. 201.39; 1929 c. 434; 1933 c. 429; 1933 c. 487 s. 60; 1947 c. 487; 1949 c. 109; 1955 c. 366; 1961 c. 463, 562; 1969 c. 337 ss. 30, 88.

The fact that a policy of insurance recited that the exchange insurer was created pursuant to 201.39 does not change the nature of the obligation assumed by the policy. *Ducommun v. Strong*, 193 W 179, 212 NW 289.

A corporation to act as an agent for interinsurance may be formed. 9 Atty. Gen. 334.

The exception or limitation in 201.39 (15) relates only to fire insurance contracts and business, so if a reciprocal insurance company issues or exchanges policies or contracts of indemnity for loss or damage on account of accident or injury to persons or property, such contracts are required to contain the provisions specified in this section. 16 Atty. Gen. 27.

There is no statutory authority for admission of interinsurance organizations of other states to transact the business of insurance in this state. 16 Atty. Gen. 635.

Upon compliance with the statutory requirements applicable to interinsurance or reciprocal insurance exchanges having their principal offices outside this state are entitled to do business in Wisconsin. 16 Atty. Gen. 765.

201.41 History: 1870 c. 56 s. 22, 23; 1872 c. 64 s. 6; 1877 c. 16; R. S. 1878 s. 1917; Stats. 1898 s. 1917; 1913 c. 637; 1917 c. 19; 1923 c. 291 s. 3; Stats. 1923 s. 201.41; 1933 c. 487 ss. 4, 61; 1961 c. 562; 1969 c. 337 ss. 31, 88.

Revisor's Note, 1933: The provisions in (2) and (3) against companies going into federal

courts are omitted because they are unconstitutional. See note to old 201.38 (2), new 201.32. The law is not changed. Subsection (4) is made 200.03 (5). [Bill 50-S, s. 61]

An order directing an assessment in liquidation proceedings was not invalid as assessing for premiums collected during a period when the company was unlawfully operating without a license, the company being a domestic mutual liability insurance company, and 76.30 (1) and (2), 76.32 and 201.41 (1), not requiring such a company to procure a license and pay a license fee. (Northwestern Nat. Ins. Co. v. Freedy, 201 W 51, followed.) In re Wisconsin Mut. Ins. Co. 241 W 394, 6 NW (2d) 330.

A company which contracted insurance on all cars sold in Wisconsin, which insurance became effective upon the sale by retail dealers at a price which was the same, whether the insurance was desired or not, and which runs for one year from date of retail sale in favor of the purchaser, was the transaction of insurance in this state, within 201.41 and required a Wisconsin license. Chrysler S. Corp. v. Smith, 9 F (2d) 666.

A contract by which one party agrees to wholly or partially indemnify another for loss or damage from a specified peril, if in written or printed form, is an insurance policy. A "general cover contract," by which one party insures the other against loss or damage from a specified peril to the latter's property anywhere in the United States, for a specified premium, and providing for issuance of underlying policies in each state, is an insurance policy. 10 Atty. Gen. 156.

201.42 History: 1961 c. 397, 624; Stats. 1961 s. 201.42; 1969 c. 337 ss. 32, 32m, 88.

On exercises of police power see notes to sec. 1, art. I.

Mail order insurers: a case study of the ability of the states to regulate the insurance business. Hanson and Obenberger, 50 MLR 175.

201.44 History: 1899 c. 190 s. 1; 1905 c. 166 s. 1; Supl. 1906 s. 1919a; 1911 c. 436; 1923 c. 291 s. 3; Stats. 1923 s. 201.44; 1933 c. 236 s. 2; 1933 c. 487 s. 64; 1933 c. 489 s. 6; 1935 c. 130; 1947 c. 501; 1949 c. 399; 1961 c. 562; 1963 c. 111, 299; 1969 c. 337 ss. 34, 88.

Revisor's Note, 1933: Subsection (8) is from 201.48. [Bill 50-S, s. 64]

An insurer was not relieved of liability because an agent had not procured a certificate of authority from the insurer. Witt v. Employers' L. A. Corp. 198 W 561, 225 NW 174.

A policy issued by unlicensed nonresident agents in violation of sec. 1919a, Stats. 1911, and in violation of sec. 1976, was validated by sec. 1919a (4). Ocean A. & G. Corp. v. Combined L. P. Co. 162 W 255, 156 NW 156.

A life insurance policy delivered by an agent with the understanding that the insured might have 60 days to accept it became effective 2 weeks afterward upon notice to the agent by the insured that he intended to accept it. A local agent may bind his company by allowing the insured to hold a life policy and extending the time for payment of the first premium. DeGroot v. Mutual L. Ins. Co. 179 W 202, 190 NW 443.

201.44 (5), imposing personal liability upon an agent "soliciting or placing" fire insurance policies without countersigning as required by 201.44 (2), is inapplicable to an agent specially licensed under 201.49 who acted thereunder as agent in "procuring" uncountersigned policies—for although the label pasted by him thereon was an indorsement permissible under 203.06 (4), it was scarcely equivalent to the "countersigning" contemplated by the statute—where policies had no space for countersigning or no provision, under 203.06 (1), that they should be invalid until countersigned by an authorized person in Wisconsin, notwithstanding 201.49 (3) purported to authorize the insured to release the agent "from the personal liability imposed by 201.44." Ferm v. L'Activite I. & R. Co. 201 W 273, 229 NW 77.

For the purposes of 201.44 (1), a person represents the insured if he actually engages in activities a Wisconsin agent may not lawfully do. Holding by a nonresident of a license from his home state authorizing activities which would constitute representing the insured does not disqualify him for a nonresident insurance agent's license. 37 Atty. Gen. 50.

Wisconsin state banks may make credit life, accident and health insurance policies available to their borrowers. Such banks cannot charge more than the premium for writing such insurance. 43 Atty. Gen. 181.

Delivery of group insurance beneficiary certificates may be within 201.44 (1). 45 Atty. Gen. 186.

201.45 History: R. S. 1878 s. 1946a, 1946b; Stats. 1898 s. 1946a, 1946b; 1923 c. 291 s. 3; Stats. 1923 s. 203.09, 203.10; 1933 c. 487 s. 65, 66; Stats. 1933 s. 201.45; 1969 c. 276 s. 597 (4); 1969 c. 337 s. 35.

201.46 History: R. S. 1878 s. 1946c; Stats. 1898 s. 1946c; 1923 c. 291 s. 3; Stats. 1923 s. 203.11; 1933 c. 487 s. 67; Stats. 1933 s. 201.46; 1969 c. 337.

201.47 History: 1915 c. 86; Stats. 1915 s. 1946em; 1923 c. 291 s. 3; Stats. 1923 s. 203.14; 1933 c. 487 s. 68; Stats. 1933 s. 201.47; 1941 c. 241; 1969 c. 337.

201.53 History: 1891 c. 267; Stats. 1898 s. 1955o; 1907 c. 504; 1911 c. 270, 310, 311; 1911 c. 664 s. 37; 1913 c. 445; 1915 c. 323; Stats. 1915 s. 1946f sub. 3, 1955o; 1919 c. 177; 1923 c. 291 s. 3; Stats. 1923 s. 203.15 (3), 207.01; 1929 c. 296; 1933 c. 487 s. 72, 244; Stats. 1933 s. 201.53, 206.51 (3); 1935 c. 214 s. 6; Stats. 1935 s. 201.53; 1947 c. 501, 521; 1949 c. 399; 1955 c. 10; 1957 c. 321; 1959 c. 351; 1961 c. 562; 1963 c. 266; 1967 c. 92 s. 22; 1969 c. 144, 337.

A contract whereby a person taking an insurance policy was to become a member of a board of special agents and to send, yearly, names of certain persons who ought to be, in his judgment, good risks, is in violation of sec. 1955o, Stats. 1898, and void, but does not prevent the person making the contract from maintaining an action to recover the amount paid as a premium on the policy. Urwan v. Northwestern N. L. Ins. Co. 125 W 349, 103 NW 1102.

Where a life insurance policy is issued with

an agreement for rebate of the premiums, it is valid notwithstanding the provisions of sec. 1955o, Stats. 1898, and the insured cannot recover the premiums so paid. *Laun v. Pacific M. L. Ins. Co.* 131 W 555, 111 NW 660.

A life insurance policy which allows an election to be made any time within 6 months after failure to pay the premium, as to whether the policy will be continued for a term or a paid-up policy substituted is discriminatory, if construed as allowing a binding election at any time within the 6 months. *Clappenbach v. New York L. Ins. Co.* 136 W 626, 118 NW 245.

Sec. 1955o, Stats. 1898, was violated by a contract appointing a lawyer as local adviser of a life insurance company and providing that in consideration of his furnishing upon "written request" the company with information as to the character and habits of applicants for insurance, certain payments would be made to him annually on the premium date of a "20-payment life advance dividend local adv. policy of insurance" for \$5,000 issued to him as part of the same transaction. Such transaction constituted discrimination between insureds of the same class and a rebate of a part of the premium. *Richmond v. Conservative L. Ins. Co.* 166 W 334, 165 NW 286.

A life insurance company, organized under ch. 418, Laws 1891, ch. 175, Laws 1895, and ch. 270, Laws 1899, is bound, on maturity of a policy, to perform it according to its terms, although the stipulated premiums were insufficient to mature the policy, and it is claimed that payment would discriminate in favor of the insured, since the insured and the insurer are the only parties to the action. *Hall v. Wisconsin L. Ins. Co.* 185 W 507, 201 NW 732.

An agreement of an insurance agent to waive his commission on a fire policy was no more than a "reduction of the premium," and his agreement to remit to the company an amount which he owed to the insured was no more than a "special favor or advantage" not specified in the policy, so that, under 201.53 (2) and (9), Stats. 1939, the policy was not rendered void by such agreements, but the insured could recover only such portion of a loss under the policy as the premium actually paid bore to the premium payable. *Fry v. Integrity Mut. Ins. Co.* 237 W 292, 296 NW 603.

A contention that the agent, in canceling a policy "flat," that is, charging no premium for the period of 2 weeks between the date of its issuance by the agent and the date of its cancellation by him at the request of the insurance company, gave a rebate to the insured, in violation of 201.53 (2), and that the cancellation was therefore ineffective as against succeeding companies on the risk, is without merit. *Homeland Ins. Co. v. Carolina Ins. Co.* 261 W 378, 52 NW (2d) 782.

Advertisements of an insurance agent in newspapers that he would give a half ton of coal to each person taking out a policy were in violation of sec. 1955o, Stats. 1898, whether or not he actually carried out his promise, and justified a cancellation of his license; but they did not justify a refusal to grant him a new license as agent of another company. 1904 Atty. Gen. 85.

Annuity contracts, which in case of a lapse

grant "a paid up annuity" in proportion to the number of premiums paid, involve discriminations contrary to the provisions of sec. 1955o, Stats. 1919. The form of such contracts is subject to the approval of the commissioner of insurance. 9 Atty. Gen. 71.

A co-operative insurance agency organized and operating under co-operative statutes (ch. 185, Stats. 1937) does not thereby violate the antirebating provisions of 201.53, Stats. 1937. 26 Atty. Gen. 261.

Deduction of agents' commissions upon the sale of insurance on property of delinquent building and loan associations by insurance agencies constitutes a violation of 201.53, Stats. 1939, prohibiting rebates. 29 Atty. Gen. 374.

Insurance companies, who are also licensed securities agents, through licensed agents may sell stock to policyholders or insurance to stockholders if not conditioned on the issuance of a policy. 52 Atty. Gen. 185.

201.54 History: Stats. 1931 s. 207.01 (2) (f); 1933 c. 487 s. 73; Stats. 1933 s. 201.54.

201.59 History: 1870 c. 56 s. 34, 36; 1873 c. 299 s. 2, 3; 1878 c. 303; R. S. 1878 s. 1926; 1885 c. 308; 1887 c. 486; 1889 c. 242; Ann. Stats. 1889 s. 1926; 1926a; 1893 c. 147; 1895 c. 105; Stats. 1898 s. 1926; 1899 c. 32 s. 1; Supl. 1906 s. 1926; 1913 c. 465; 1915 c. 128; 1917 c. 501 s. 2; 1919 c. 300; 1923 c. 291 s. 3; Stats. 1923 s. 201.59; 1927 c. 215, 512; 1929 c. 482 s. 7; 1933 c. 168; 1933 c. 487 s. 78; 1933 c. 489 s. 7; 1935 c. 495; 1937 c. 188; 1939 c. 309; 1945 c. 390; 1949 c. 436; 1969 c. 276 s. 584 (1) (b).

Where a city contracted with a town to provide fire protection and the services of its fire department outside of its boundaries the city was not liable for the loss of a farmer's property because of negligence on the part of the city's firemen, responding to a call, in not remaining at the fire until it was definitely determined that the fire had been extinguished, nor was the city liable apart from the statute because of its contract with the town or because of deriving benefits thereunder. *Eulrich v. Clintonville*, 238 W 481, 300 NW 219.

The 2% of the premiums paid under sec. 1926, Stats. 1898, must be paid into the municipal treasury and used to support its fire department. The money so received cannot be turned into the poor fund. 1902 Atty. Gen. 134.

The license fees required by sec. 1926, Stats. 1898, to be paid to municipalities are obligations distinct from the percentage of premiums required by 76.30 to be paid to the state. The payment of one cannot be credited as part payment of the other. 1904 Atty. Gen. 146.

Sums accruing to the commissioner of insurance by reason of failure of towns, cities and villages to comply with 101.29 and 201.59, Stats. 1927, may be used for conducting investigations as provided in 200.19. 17 Atty. Gen. 298.

The actual cost of fire inspections made by the industrial commission under 201.59 (4), Stats. 1931, is to be paid from fire department dues accumulated under that subsection, and the balance of such funds may be used for conducting investigation of fires, under 200.19. 21 Atty. Gen. 230.

See note to 62.13 (10), citing 25 Atty. Gen. 102.

Premiums upon which fire department dues are payable under 200.17 (2) and 201.59 (1) (a), Stats. 1945, include all assessments levied during the year. 34 Atty. Gen. 373.

201.61 History: 1857 c. 89; R. S. 1858 c. 72 s. 21-24; 1870 c. 56 s. 18; R. S. 1878 s. 1914; Stats. 1898 s. 1914; 1923 c. 291 s. 3; Stats. 1923 s. 201.36; 1933 c. 487 s. 77; Stats. 1933 s. 201.61.

201.62 History: 1931 c. 309; Stats. 1931 s. 201.595; 1933 c. 168; 1933 c. 487 s. 78a; 1933 c. 489 s. 8; Stats. 1933 s. 201.62; 1945 c. 144; 1949 c. 436; 1961 c. 397.

201.63 History: 1949 c. 436; Stats. 1949 s. 201.63; 1961 c. 397, 562, 624; 1969 c. 337 ss. 43, 88.

A foreign insurance company which has not complied with 201.32, Stats. 1949, is not "authorized to do business in this state" within the meaning of 85.09 (5) (c). The motor vehicle department may not accept notice of insurance forms from such companies. 39 Atty. Gen. 151.

201.71 History: 1933 c. 155; Stats. 1933 s. 201.71; 1935 c. 96; 1969 c. 337 s. 88.

201.72 History: 1933 c. 155; Stats. 1933 s. 201.72; 1969 c. 337 s. 88.

201.73 History: 1933 c. 155; Stats. 1933 s. 201.73.

201.74 History: 1933 c. 155; Stats. 1933 s. 201.74; 1961 c. 562; 1965 c. 218; 1969 c. 276 s. 601 (1); 1969 c. 337 s. 88.

201.76 History: 1933 c. 155; Stats. 1933 s. 201.76.

201.77 History: 1933 c. 155; Stats. 1933 s. 201.77.

201.78 History: 1933 c. 155; Stats. 1933 s. 201.78.

201.79 History: 1933 c. 155; Stats. 1933 s. 201.79; 1969 c. 337 s. 88.

201.80 History: 1933 c. 155; Stats. 1933 s. 201.80.

201.81 History: 1933 c. 155; Stats. 1933 s. 201.81; 1969 c. 337 s. 88.

201.82 History: 1933 c. 155; Stats. 1933 s. 201.82; 1969 c. 337 s. 88.

CHAPTER 202.

Insurance—Town Mutuals.

202.01 History: 1876 c. 344 s. 1, 2; 1877 c. 82; R. S. 1878 s. 1927; 1885 c. 421; 1889 c. 212; Ann. Stats. 1889 s. 1927; 1895 c. 289; Stats. 1898 s. 1927; 1901 c. 202 s. 1; Supl. 1906 s. 1927; 1907 c. 439; 1909 c. 31; 1913 c. 43; 1915 c. 33; 1915 c. 604 s. 82; 1923 c. 87; 1923 c. 291 s. 3; Stats. 1923 s. 202.01; 1929 c. 418 s. 2; 1935 c. 214 s. 5; 1937 c. 226; 1939 c. 270, 315, 339; 1939 c. 513 s. 42; 1953 c. 540 s. 36; 1955 c. 10; 1957 c. 335 s. 1 to 4; 1959 c. 128; 1961 c. 471; 1967 c. 254.

A town insurance company, organized under

ch. 103, Laws 1872, which has been compelled to pay a loss occasioned through the negligence of a third party, may take an assignment from the insured of the whole claim for damages, exceeding the amount it paid, and recover the whole sum from such party. *Hustisford F. Ins. Co. v. Chicago, M. & St. P. R. Co.* 66 W 58, 28 NW 64.

A town mutual insurance company created under this chapter cannot convert itself into domestic mutual fire insurance company by amending its articles at an annual meeting. 24 Atty. Gen. 255.

The commissioner of insurance may disapprove only such bylaws of town mutual insurance companies as fail to meet the legislative standard, i.e., those which are inconsistent with or a waiver of the provisions or conditions of the standard town mutual policy. 56 Atty. Gen. 71.

202.02 History: 1876 c. 344 s. 10; 1877 c. 263 s. 3; R. S. 1878 s. 1940; 1880 c. 211; 1881 c. 260; 1885 c. 281 s. 4; 1889 c. 38; Ann. Stats. 1889 s. 1940; Stats. 1898 s. 1940; 1909 c. 31; 1923 c. 291 s. 3; Stats. 1923 s. 202.16; 1927 c. 281; 1929 c. 418 s. 4; Stats. 1929 s. 202.02; 1937 c. 226; 1939 c. 340; 1943 c. 214; 1945 c. 288; 1961 c. 233.

202.03 History: 1947 c. 346; Stats. 1947 s. 202.03; 1959 c. 19.

202.04 History: 1876 c. 344 s. 2, 3; 1878 c. 277; R. S. 1878 s. 1929; 1882 c. 146 s. 1; 1887 c. 222; Ann. Stats. 1889 s. 1929, 1929a; Stats. 1898 s. 1929; 1899 c. 168 s. 1; Supl. 1906 s. 1929; 1923 c. 291 s. 3; Stats. 1923 s. 202.04; 1929 c. 418 s. 6; 1937 c. 226; 1939 c. 316; 1949 c. 223; 1967 c. 254.

202.06 History: 1876 c. 344 s. 10, 11; 1878 c. 277; R. S. 1878 s. 1931; 1880 c. 134; 1881 c. 48 s. 1; 1882 c. 187; 1883 c. 189 s. 1; 1885 c. 421 s. 2; 1887 c. 217, 308; 1889 c. 204; Ann. Stats. 1889 s. 1931, 1932a; 1893 c. 227; Stats. 1898 s. 1931; 1903 c. 352 s. 1; 1905 c. 36 s. 1; Supl. 1906 s. 1931; 1907 c. 442; 1909 c. 99; 1911 c. 155 s. 2; 1913 c. 43, 152, 242; 1915 c. 444; 1923 c. 33; 1923 c. 291 s. 3; Stats. 1923 s. 202.06; 1927 c. 114; 1929 c. 403; 1929 c. 418 s. 8; 1929 c. 516 s. 11; 1935 c. 126; 1937 c. 226; 1939 c. 314, 318, 366; 1943 c. 111; 1947 c. 425; 1949 c. 507; 1953 c. 416; 1967 c. 254.

A policy issued under sec. 1931, Stats. 1898, and covering hay and grain upon the premises does not cover hay and grain upon premises rented by the insured after the taking out of a policy. *Brandt v. Berlin F. M. F. & B. V. Co.* 108 W 231, 84 NW 180.

In an action to recover on a mutual fire policy covering farm buildings, the operation of a cooker in a farm building to prepare necessary feed in operating a hog farm did not constitute a manufacturing process, and did not prevent recovery on the policy. *Blue Mound F. S. Co. v. Farmers' Mut. F. Ins. Co.* 195 W 615, 219 NW 357.

Where the application for fire insurance covered real and personal property located on the insured's farm in territory within which the insurer, a town mutual, was authorized to insure such property, and where there was no attempt to insure any of the insured's property located elsewhere, the fact that the in-