

1973 Senate Bill 24

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CHAPTER 22, Laws of 1973

AN ACT to repeal 201.03 and chapter 202; to amend 201.045 (1), 201.18 (2), 201.19, 209.04 (10) (a) and 600.03 (24) (a) and (46); to repeal and recreate 201.075; and to create 59.51 (14m), 610.43 and chapter 612 of the statutes, relating to a general revision of the insurance law relating to town mutual company law and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.51 (14m) of the statutes is created to read:

59.51 (14m) A county board may, upon request of the register of deeds, authorize the destruction of all documents pertaining to town mutual insurance companies which were formerly required to be filed under ch. 202, 1971 stats., and which under s. 612.81 no longer have to be filed. At least 60 days prior to the proposed destruction, the register of deeds shall notify in writing the state historical society which may order delivery to it of any records of historical interest. The state historical society may, upon application, waive the notice.

NOTE: This language is adapted from s. 19.23. Section 59.51 sets forth generally the duties of the register of deeds. Section 59.51 (14) pertains to destruction of obsolete documents pertaining to chattels. See s. 612.81.

SECTION 2. 201.03 of the statutes is repealed.

NOTE: This is replaced by s. 612.22.

SECTION 3. 201.045 (1) of the statutes is amended to read:

201.045 (1) This section applies to all insurers incorporated or organized under any law of this state except ~~ch.~~ chs. 611 and 612, and to nonprofit service plans as defined by s. 200.26.

SECTION 4. 201.075 of the statutes is repealed and recreated to read:

201.075 Assessable policies by mutuals. Every insurer, other than one organized or operating under ch. 612, which issues assessable policies shall have printed on every such policy, separately from any other provision, conspicuously and in type at least as large as that used in the body of the policy, the words "This policy is assessable."

NOTE: This does not apply to fraternal benefit societies.

SECTION 5. 201.18 (2) of the statutes is amended to read:

201.18 (2) The requirements of this section as to unearned premium or reinsurance reserve shall do not apply to town mutual insurance companies organized under ch. 202, or to title insurance of the type specified in s. 201.04 (8).

NOTE: This amendment requires town mutuals to maintain unearned premium reserves. Section 201.18 indicates the manner in which the unearned premium reserve is to be calculated. That statute permits various approximate methods, which require only a relatively simple calculation, which would not be burdensome for any company.

SECTION 6. 201.19 of the statutes is amended to read:

201.19 (1) No policy ~~shall~~ may contain any provision limiting the time for beginning an action on the policy to a time less than that authorized by the statutes, ~~provided except~~ that the time within which an action must be brought on the insurance ~~policies~~ policy provided in ~~ss. 202.085 and s. 203.01, shall also apply~~ applies to any rider or endorsement attached thereto insuring property against risks of loss enumerated in s. 201.04 (1) or to any separate windstorm or hail insurance policy issued pursuant to s. 201.04 (1); or incorporate any matter not fully set forth therein, or in a copy of any application attached to and made a part of ~~such the~~ the policy at the time of its delivery; or prescribe in what court any action may be brought thereon or that no action shall be brought.

(2) In policies described in sub. (1) which contain a clause providing for appraisal at the election of either the ~~insurance company~~ insurer or the insured, the time during which an appraisal procedure is conducted under the terms of the policy shall be excepted from the time provided for commencing an action under this section and ~~ss. 202.085 and s. 203.01.~~

NOTE: This amendment is necessary because this chapter replaces provisions relating to the regulation of town mutual insurance contracts and there will no longer be a s. 202.085. However, the amendment of this section is not intended to suggest that there should be different time limits for bringing suit against town mutuals and other kinds of insurance companies. There is good reason to maintain uniformity in such provisions.

SECTION 7. Chapter 202 of the statutes is repealed.

SECTION 8. 209.04 (10) (a) of the statutes is amended to read:

209.04 (10) (a) Except as otherwise provided in s. ~~202.06 (7)~~ 612.61 (2), persons engaged in the business of soliciting insurance exclusively for town ~~mutual insurance companies~~ mutuals.

SECTION 9. 600.03 (24) (a) and (46) of the statutes are amended to read:

600.03 (24) (a) For an insurer organized or operating under ch. ~~202~~ 612, the inability to pay any loss within 30 days after the due date specified in the first assessment notice issued under ~~s. 202.14~~ s. 612.54 after the date of the loss, or any other uncontested debt as it becomes due, or the inability to replenish by timely assessment any required surplus.

(46) "Town mutual" means a corporation organized or operating under ch. 612 and is synonymous with "town mutual insurance corporation".

SECTION 10. 610.43 of the statutes is created to read:

610.43 Transition provision for town mutuals under chapter 612. (1) EFFECTIVE DATE OF CHAPTER 612. Except as otherwise provided in subs. (2) and (3), ch. 612 applies to town mutuals 90 days after its publication.

(2) EXISTING TOWN MUTUALS. (a) *Continuance of authorization.* A town mutual holding a valid certificate of authority on the effective date of ch. 612 (1973) shall continue to be authorized within the limits of its certificate of authority, subject to par. (c).

(b) *Inapplicable provisions.* Except under par. (d), s. 612.02 (1), (2) (a) and (4) to (7) do not apply to town mutuals under par. (a).

(c) *Delayed effect.* Sections 612.02 (2) (b) to (i), 612.33 (1), 612.36 and 612.51 do not apply to town mutuals under par. (a) until 2 years after the effective date of ch. 612 (1973). However, any town mutual under par. (a) may elect to comply with any such provisions at an earlier date. So far as they are not yet applicable to a town mutual, corresponding provisions for the law applicable prior to the effective date of ch. 612 (1973) continue to apply. The commissioner may extend the 90-day period of sub. (1) with respect to any provision, for a reasonable period, either for all town mutuals by rule or for an individual town mutual by order.

(d) *Extension of business.* If a town mutual under par. (a) wishes to extend its business beyond the limits of its certificate of authority in effect as of the effective date of ch. 612 (1973), it shall apply for a new certificate of authority which shall be issued upon substantial compliance with the applicable procedural and substantive requirements of s. 612.02 (4), (6) and (7) and any other applicable legal requirements.

(3) EXTENSION OF ADJUSTMENT PERIOD. If timely adjustment to the requirements of ch. 612 would cause an existing town mutual hardship, disproportionate expense or serious inconvenience, the commissioner may, upon the town mutual's request, grant an additional delay for compliance with specified requirements if the interests of insureds and the public are not endangered, but in no case for more than 2 years beyond the effective dates otherwise applicable.

NOTE: Sub. (2) (d) does not apply any automatic requirement for surplus for an extension of business.

SECTION 11. Chapter 612 of the statutes is created to read:

CHAPTER 612.
TOWN MUTUALS.

PREFATORY NOTE: Small, informal local cooperative fire associations, which came to be known as town or county mutuals, first appeared in this state in the middle of the 19th century as a response of capital-scarce rural communities to the inadequacies of the commercial fire insurance market. Premiums were hard to pay on the western frontier, and in addition the large commercial insurer and the small farmer viewed each other with mistrust. As a result, there was a shortage of insurance and a special form of organization, the town or county mutual, appeared to fill the vacuum. The assessment plan, accompanied by a substantial amount of self-help, neighborly mutual assistance, and informal part-time management helped to avoid the necessity of paying the advance cash premiums charged by the commercial companies. The closeness of all the members minimized the risk of fraudulent and excessive claims, and the common interest demanded equitable claims practices at a time when commercial insurers showed a marked tendency to rely excessively on technical defenses. (For a more detailed historical discussion, see Kimball, Insurance and Public Policy, 44-47 (1960).)

Local mutuals were established in the east before they were in Wisconsin, but those in Wisconsin have had a comparatively high survival rate, with continuing vitality as living and meaningful institutions. In recent years their numbers have shrunk mainly by reason of mergers, from 190 in 1950 to 146 in 1968, but only 195 existed in 1897 and no more than the latter number existed in the 1880's. Their premium income has steadily continued to increase over the years and they still service a significant part of the rural market.

Town mutuals are virtually "pure" mutuals -- they have preserved the mutual aid idea of mutual insurance in its original form, with extensive democratic participation, unlike most of the "commercial" mutuals for which the provisions of ch. 611 are principally designed. They are small, and are limited by law to a restricted territory which usually may not exceed 4 contiguous counties except through merger, when the limit is raised to 8 contiguous counties. See former s. 202.02. The statutory limitations on territory are more generous than the limits within which town mutuals have in fact elected to operate. Few operate in as many as 4 counties and none operate in 8.

Town mutuals provide only a limited choice of coverages centered around fire insurance. The premium and assessment income of Wisconsin town mutuals for 1968 was about \$11 million. They minimize bookkeeping, forms, paid staff and agents, stressing simplicity and economy in all phases of their operations. They have policyholder participation in corporate government to a degree impossible in larger commercial mutuals; indeed, they are democratic in almost the original sense of that term. Their cooperative character has been acknowledged in many features of the law applied to them.

The heyday of the formation of new Wisconsin town mutuals was between 1860 and 1909. Of the 146 town mutuals existing at the end of 1968, only a few were organized after 1909: there was one each in 1914 and 1916, and 2 in 1928. A recent attempt failed for want of initial subscribers. However useful existing town mutuals may be, there is little incentive in the contemporary world to form new ones and the number of existing ones is declining. Between 1950 and the end of 1968, mergers reduced the number

of companies from 190 to 146. However, the surviving town mutuals still form, numerically, the largest group of domestic Wisconsin insurers. There are fewer than 100 commercial mutuals and stock corporations combined. But, despite their numbers, town mutuals collect only about 20% of the Wisconsin fire and extended coverage premiums. When package policies are taken into account, the percentage is reduced to about 10%. And in other lines of insurance they collect almost nothing. Overall, in 1968, town mutuals earned only \$9 million of the \$654 million of Wisconsin fire-casualty premiums, net of reinsurance.

Important changes have taken place in the nature and operation of town mutuals, and the insurance market which they must face. The value of insured properties and the average amounts of fire losses have multiplied many times since 1860. The high loss potential is increasingly difficult to handle through a pure assessment system based on a small number of members. A single large loss in a small company can produce an assessment beyond the financial means of the individual members to pay and is therefore difficult or impossible to collect. The town mutuals have dealt with the problem of larger risks in several ways.

One way of dealing with larger risks is to reinsure. They have entered into reciprocal reinsurance agreements, or, since 1932, have often reinsured with a collectively owned reinsurance corporation. Some of them belong to a "spread loss" association which has elements of both reinsurance and banking, spreading loss over time more than among participants.

A second way to deal with larger risks, used by most of the town mutuals, is to change from the pure assessment system to advance premiums calculated to cover the expected losses and then to accumulate a surplus as a security fund to protect against extraordinarily high losses and to spread losses over time. The law does not now require such a surplus, on the theory that any deficiency that may result from catastrophic losses is adequately provided for by the possibility of levying assessments. The total surplus of all town mutuals in 1968 was about 3 times the losses paid in that year. In individual companies it ranged from more than 20 times losses down to a deficit. (See 1969 Wisconsin Insurance Department Report, pp. 254-259.) Actually, since unearned premiums are not treated as a liability, as with ch. 611 companies, the surplus is inflated and would decline substantially if unearned premiums were treated as a liability. Nevertheless, the surplus would still be significant in some companies.

Another method used to lessen the impact of large losses has been merger, which provides a broader base for spreading the risk. In 1967, 10 mergers of town mutuals were consummated. Four more were completed in 1968. However, there are limits to this method of solving the problems of small size. The special virtues of this form of insurance organization are directly related to, and dependent on, small size and local character and the consequent feeling of solidarity among members: the low cost of administration, the possibility of operating without dependence upon agents, with minimum formality and paperwork, and the reduced concern for fraud by insureds and overreaching by insurers. True mutual responsibility and membership participation depend on small size. With increasing territory and membership, a town mutual loses many of these distinctive features and becomes more like a commercial insurer. It is no surprise, therefore, that former law restricted the territory of town mutuals. See former s. 202.02.

This law continues that statutory policy in s. 612.21, but gives slightly wider scope to unmerged town mutuals, for it is not easy to see why merger should justify wider scope of operation. It is not clear why 4 counties should not be the limit in all cases, or whether some other measure should not be substituted, since the number of counties authorized is arbitrary, and its meaning depends on the location and character of the counties.

Town mutuals have traditionally been restricted to fire, extended coverage, windstorm and related insurance. Insurance against windstorm has been included again since 1951, after being eliminated in 1937. Because of the catastrophe hazard, windstorm insurance presents problems to a localized company operating wherever windstorm is a special hazard.

The uncomfortable situation of the town mutuals has been compounded recently by the development by commercial insurers of multiple-line policies, e.g. the "homeowners" policy. In 1967, town mutuals were authorized to write most coverages included in the "package" policies now offered by commercial insurers: plate glass insurance, burglary insurance, personal liability insurance, and medical benefits coverage, but only on condition that they be fully reinsured with a commercial insurer. See former s. 202.06 (6). Thus, while a town mutual may issue a complete "package" of the "farmowner's" or multiple-line type, it has been able to act, so far as the additional coverages are concerned, only as the channel through which a commercial insurer provides insurance. This rule has the deficiencies of most compromises. While it removes part of the competitive disadvantages to which the town mutuals are subjected, it does not fully preserve the characteristic economies for policyholders that are inherent in the genuine town mutual system, and it does not give the town mutual full competitive freedom.

Some of the additional coverages do not present exposures inherently difficult for the town mutuals to carry. For example, plate glass, burglary and theft and even medical payments coverage would not subject a town mutual to an unreasonable exposure. These perils are left outside the scope of town mutual insuring powers only because of a traditional and outdated, but still widely recognized, distinction between "fire" and "casualty" insurance. With liability insurance, however, the situation is different. To be meaningful, liability coverage must provide protection against very high claims. The possible maximum of a liability claim has now reached an amount that even in remote rural areas may be very large. Verdicts in six figures are no longer rare in liability suits, and seven figures are not unknown. Moreover, the situs of a liability claim, at least for automobile insurance, need not be the rural area but may be a distant city. While in some town mutuals the volume of business and the accumulated surplus is sufficient to support a limited liability business, in others it is not. It was not advisable to remove generally the reinsurance requirement of the former law, but it was desirable to permit some participation by town mutuals.

Participation would encourage more careful selection of risks and make reinsurance of the remainder easier, because the town mutual is putting its own resources on the line. Many reinsurers are reluctant to reinsure unless the ceding insurer retains a "piece of the action". Consequently this law only requires 90% reinsurance, but of course permits 100% reinsurance. The commissioner has power to make the percentage of participation larger where the town mutual is large enough and sound enough to justify it.

More of a burden than the financial hazards of liability claims is the complex task of adjusting third-party claims. Unlike the adjustment of ordinary fire losses, liability claim handling is a specialist's function. Thus liability insurance, and to a more limited extent medical payments insurance, present a barrier which the town mutuals cannot easily leap, without abandoning some of their traditional operating principles. There is no group discipline for claims made by third parties not members of the group.

This leads to a serious question -- whether the town mutuals as now structured can perform the task for which they were developed, to satisfy the basic insurance needs of a rural community. These needs go beyond multiple-line or farmowner's coverage; they include, e.g., automobile insurance and general disability coverage for the farm family. If town mutuals continue to be limited to fire insurance and closely related coverages they are in danger of being squeezed out of the market by commercial insurers or groups. But a full service operation is difficult on the small scale to which town mutuals must be committed. On the other hand, some town mutuals operate in areas from which commercial companies exclude themselves, and many members seem satisfied with the limited coverages afforded. Healthy town mutuals can lessen the need in rural areas for a property insurance pool of the kind provided by Wis. Stats. ch. 619. Moreover, many town mutuals employ a professional insurance agent as executive secretary. He does most of the underwriting of fire insurance for the town mutual and places other coverages with his commercial insurers. This system often provides a satisfactory marriage of town mutuals and commercial insurance. Of course, it does not encourage expansion of operation by the town mutuals.

While every effort should be made to help town mutuals to respond to the full range of basic insurance needs of today's rural community, insurance regulation should not compel them to do so, nor permit them to do so without appropriate safeguards. Where the members are satisfied with existing operations and with the traditional limitations, they should be free to continue at that level. But where the members feel that their company should meet their enlarged insurance needs, the law should help them to the extent that their interests can be safeguarded. But if a town mutual wishes to abandon the traditional limitations of territory and expand coverage substantially, it should adopt commercial techniques for preserving solidity. Then it tends to lose its historic character and at some point should no longer be distinguished from an ordinary or commercial mutual corporation. As a consequence, one of the new provisions of this chapter prescribes an orderly procedure for conversion of a town mutual into an ordinary mutual corporation.

For many town mutuals with surplus funds, the special status given them by the existing statutes is a burden, not a benefit. On December 31, 1968, 60 town mutuals had a surplus of more than \$100,000 each. This was sufficient to authorize them, under s. 201.05 (2m), to transact all kinds of insurance except life and fidelity -- if they were ordinary mutuals rather than town mutuals. With an unearned premium reserve set up as a liability fewer of them could qualify under former general law and the new insurance corporation law under ch. 611 is still more restrictive. But under former law, they were required to reinsure certain coverages with an ordinary mutual or other insurer which might, ironically, have less surplus than the ceding town mutual. Conversion is a natural answer for any such case, if the members wish to avail themselves of it.

Merger is still permitted as under former law. The former 8-county territorial limitation is continued -- if a town mutual wishes to expand beyond that limit it should convert to a commercial mutual.

It is unlikely that there will be any significant interest in new organizations of town mutuals in the future. Little has been shown in recent years. Nevertheless, it is unjustified to preclude new organizations. This law therefore continues provisions for the formation of town mutuals, simplified from the rules for other corporations in ch. 611, but with closer surveillance by the commissioner than under ch. 611. There is also closer supervision of the organization process than under former law.

This draft repeals without replacement s. 202.06 (5), which authorizes loans on unsecured notes -- a provision that is dangerous and unjustified.

The chapter assimilates many provisions of the general insurance law which can be appropriately applied to town mutuals. For example, ss. 612.16 and 612.17 adopt the provisions applicable to exclusive agency contracts and management contracts.

612.01 Title, purposes and scope. (1) **SHORT TITLE.** This chapter may be cited as the "Town Mutual Act".

(2) **PURPOSES.** The purposes of this chapter are:

- (a) To preserve and encourage cooperative low-cost insurance;
- (b) To establish a framework in which mutuality in its true sense can be preserved, and small mutual corporations can be kept viable;
- (c) To preserve and strengthen the interest and control of the membership of town mutuals;
- (d) To enable town mutuals to satisfy as many of the essential insurance needs of their members as is consistent with the other objectives of this code; and
- (e) To provide financial guaranties sufficient to ensure the solidity of town mutuals, and to encourage them to develop adequate surpluses.

(3) **SCOPE.** Except as otherwise provided, this chapter applies to all corporations organized under this chapter or operating under ch. 202 on the effective date of this chapter (1973).

NOTE: The statement of purposes in sub. (2) is intended, *inter alia*, to make sure that town mutuals are treated as a different species in practice as well as in theory. It includes a formal statement of some of the unique characteristics of town mutuals.

612.02 Organization of town mutuals. (1) **INCORPORATING MEMBERS.** A town mutual may be organized by 100 or more adult natural persons each of whom owns an interest in a separate insurable risk in the territory described in sub. (2) (c), and each of whom agrees to insure those risks in the town mutual, at least against damage by fire.

(2) **ARTICLES OF INCORPORATION.** The articles shall state:

- (a) The name of the corporation which shall contain the words "Town Mutual";
- (b) The address of the principal office, which may be designated as the residence or business office of the holder of a specified corporate office;

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(c) The territory within which the corporation plans to operate which may not exceed 4 contiguous counties, except that the commissioner may authorize a broader territory aggregating no more than 8 contiguous counties if he finds there is a significant unsatisfied need in the added counties for the insurance provided by the town mutual;

(d) The types of insurance to be written which shall conform to s. 612.31;

(e) The number of directors and the manner of their selection and of their replacement if there are interim vacancies;

(f) The titles of the officers, their terms of office and the manner in which they are to be selected;

(g) The procedures and quorum requirements for the annual and special meetings and the voting rights of the members;

(h) The general conditions and procedures for levying assessments; and

(i) The procedures for amending the articles and for adopting and amending bylaws.

(3) MODEL ARTICLES. The commissioner shall promulgate model articles of incorporation which may be used by any town mutual.

(4) APPLICATION FOR CERTIFICATE OF AUTHORITY. The incorporating members shall file with the commissioner an application for a certificate of authority which shall be signed by or on behalf of each incorporating member and shall include or have attached:

(a) The names and addresses of all incorporating members and, for the preceding 10 years, the names, all addresses and all occupations of all proposed directors and officers;

(b) The proposed articles which shall be signed by each incorporating member, and the proposed bylaws;

(c) The affidavit of 2 incorporating members stating that they are personally acquainted with all incorporating members and know them to be owners of property described under sub. (1) and to be the signers of the application and the articles;

(d) All agreements relating to the corporation to which any incorporating member or any proposed director or officer is a party;

(e) The amount and sources of the funds available for organization expenses and the proposed arrangements for reimbursement of incorporating members;

(f) The proposed compensation of directors and officers;

(g) The plan for conducting the insurance business including:

1. The types of insurance to be written;
2. The policy forms to be used initially;
3. The proposed methods for soliciting members;
4. The proposed methods for establishing premium rates and classifications for assessments; and
5. Any proposed reinsurance arrangements; and

(i) Such other relevant documents or information as the commissioner reasonably requires.

(5) INITIAL SURPLUS. (a) *Requirement.* The incorporating members shall pay in or procure an initial surplus in an amount at least as large as that specified by the commissioner. The amount he specifies shall be sufficient to permit the town mutual to commence business and to protect the members in case initial losses are unexpectedly high, but may not exceed \$100,000. The surplus may be provided by gifts or by contribution notes bearing interest at a rate approved by the commissioner and repayable under par. (c).

(b) *Factors determining amount of initial required surplus.* In determining the amount of initial required surplus, the commissioner shall consider all factors relevant to the financial needs of the corporation, including the matters specified in sub. (4) (e) and (g), the number of incorporating members, the nature of their properties and financial position and the general economic situation.

(c) *Repayment of contribution notes.* No payment on principal or interest on contribution notes may be made without approval of the commissioner. He shall approve if after payment there will remain surplus in an amount sufficient for the continuing needs of the corporation and to satisfy all other requirements of the law.

(6) CERTIFICATE OF AUTHORITY. The commissioner shall issue a certificate of authority if:

(a) He finds that all requirements of law have been met;

(b) He is satisfied that the proposed directors and officers are trustworthy and individually competent for the tasks assigned them and that collectively they have the competence and experience to administer the affairs of the proposed town mutual;

(c) He is satisfied that the total amount initially at risk and its distribution permit a sound insurance operation; and

(d) He is satisfied that the business plan is consistent with the interests of the members and of the public.

(7) CONTENTS OF CERTIFICATE. The certificate of authority shall specify the territories and types of insurance authorized and the surplus required under sub. (5).

(8) EFFECT OF CERTIFICATE. Upon issuance of the certificate of authority, the town mutual shall have legal existence.

NOTE: This section provides a procedure for forming new town mutuals. Although its use is unlikely, it should be available if needed. It follows the pattern of ch. 611 for domestic stock and mutual corporations, except that the procedure is not divided into two steps and is simplified in other ways.

In sub. (1), although there is no theoretical objection to using corporations as incorporating members, it would introduce needless complexities. They may become members later.

Unlike s. 202.01 (2), which formerly governed town mutuals, this section does not prescribe the precise words for the articles of incorporation, but sub. (2) sets some general standards, and leaves the details for the incorporating members to determine. Help can be obtained from an adviser or the new town mutual may use the model articles to be promulgated under sub. (3), which should initially follow closely the present statutory form.

Under former law, no surplus of any kind was required for the formation of a town mutual. This was unrealistic and dangerous -- it would permit a town mutual to start its operation on a pure assessment basis without any funds for the payment of losses or for administration expenses until the first assessment was levied. Even a company charging advance premiums, prepaid by all initial members for the first year, may have difficulty because of the expenses of launching the operation. A series of heavy losses in the first year could then lead to a discouragingly high assessment and to early failure. A minimum initial operating fund and contingency reserve seems indispensable, and sub. (5) provides for one, the amount of which is to be set by the commissioner.

The sources of the initial surplus are not prescribed. Ordinarily it would be furnished by some incorporating members as a loan, through contribution notes. These contribution notes are the same in nature as those authorized for mutuals under ch. 611. Sub. (5) (c) makes repayment dependent on the existence of adequate surplus. Establishment and maintenance of a permanent surplus is thus encouraged, though not required except at the time of repayment of the loans.

Additional continuing surplus requirements can be established under s. 612.31 (7), where appropriate, though they are established by rule and not specified in each certificate of authority.

The use of the word "types" in sub. (7) is intended to avoid any precise technical meaning, so that the commissioner may shape the certificate with appropriate restrictions.

This law no longer requires filing of any documents with the county register of deeds. In view of the close and continuing supervision exercised by the commissioner of insurance, such filing constitutes an unnecessary duplication of record-keeping. This applies not only to the articles of new corporations but also to changes in the corporate status of existing ones. This law discontinues all such filing requirements and makes possible the transfer of the documents now held by the registers of deeds to the historical society, in view of their potential value as sources for historical research. See *supra*, s. 59.51 (14m) and *infra*, s. 612.81.

612.03 General powers and defense of ultra vires. Section 181.04, except subs. (9), (12) and (13), and s. 181.05, except for sub. (3), apply to town mutuals. Section 181.04 (7) is subject to s. 612.35.

NOTE: Town mutuals should be given general corporate powers, though they have survived without them for a century. General ultra vires rules should also be applied to them.

612.04 Amendments of articles, bylaws and business plan. (1) **RIGHT TO AMEND ARTICLES AND MAKE AND AMEND BYLAWS.** Section 181.35 applies to town mutuals. A town mutual may make and amend bylaws as provided by the articles or, in the absence of any such provision, as the articles may be made or amended.

(2) **APPROVAL REQUIRED.** No change in the articles, bylaws or in the business plan shall become effective until approved by the commissioner, nor may a town mutual depart from its business plan except with the commissioner's approval. No change may be made inconsistent with s. 612.02 (2). Section 181.41 applies to town mutuals.

(3) **GROUNDS FOR DISAPPROVAL.** The commissioner shall approve the change unless he finds, after a hearing, that it would be:

- (a) Contrary to law; or
- (b) Inconsistent with the interests of the members or of the public.

NOTE: This is stricter than ss. 611.28 and 611.29, as befits the smaller size and local character of the town mutual. The approval requirement continues former s. 202.01 (4) and (8).

612.10 Membership. (1) **CREATION AND DURATION OF MEMBERSHIP.** Each policyholder is a member of the town mutual and has all the rights and duties of a member during the time his policy is in effect. The articles or bylaws may establish rules determining which of multiple policyholders on the same policy shall exercise voting rights or how such multiple policyholders may divide voting rights among them.

(2) **MORTGAGEE NOT A MEMBER.** A person having rights merely by reason of a mortgagee clause included in or attached to a policy does not thereby become a member.

NOTE: Sub. (1) covers the same subject matter as the first clause of s. 202.09, but is quite different. The termination of insurance contracts and therefore of membership will be regulated generally by ch. 631; this will include the matter now regulated in the first sentence of s. 202.13. Sub. (1) also leaves to the articles or bylaws the decision how voting rights are to be determined in case of multiple ownership, e.g. if husband and wife are policyholders on jointly owned property. In such cases it does not seem justified to give "each member" one vote, as under present law. Rather, one person can be designated as the voter or voting rights and duties may be divided among them.

Sub. (2) is necessary to supersede case law which appears to regard the mortgagee as a separate policyholder. A mortgagee clause, designed simply to protect a creditor, should not be the basis for establishing membership rights, even in those cases where the mortgagee is free of the defenses available to the mortgagor.

612.11 Meetings of members. (1) **PLACE OF MEETINGS.** All meetings of members shall be held within the territorial limits of the town mutual, except under s. 612.21 (4).

(2) **NOTICE OF MEETING.** (a) *Annual meeting.* Notice of the time and place of the annual meeting shall be given to each member by printing it conspicuously on each policy or in any other reasonable manner that the commissioner approves. A change in time or place may be made by the board of directors by giving notice at least 10 days prior to the original date and 30 days prior to the new date, in the manner prescribed in s. 181.15 or in any other reasonable manner that the commissioner approves.

(b) *Special meetings.* Notice of special meetings shall be given to members at least 30 days prior to the date of the meeting, and shall state the proposed business to be brought before the meeting, in the manner prescribed in s. 181.15 or in any other reasonable manner that the commissioner approves.

(3) **COMMISSIONER'S RIGHT TO ATTEND.** The commissioner may attend any meeting of members.

NOTE: This section follows ss. 611.41 and 611.42 except that sub. (2) refers to s. 181.15, which permits personal delivery, mailing or class 2 publication,

if that is authorized in the articles or bylaws. No provision corresponding to s. 611.41 (1) concerning communications to members is included because it seems unnecessary in the simple local context and framework of town mutuals.

612.12 Voting rights of members. (1) **MATTERS SUBJECT TO VOTE.** Members of town mutuals shall have the right to vote on the following matters:

(a) Election of directors;

(b) Amendment of articles;

(c) Merger, consolidation, transfer of business under s. 612.24, conversion and voluntary dissolution;

(d) Any decision by the town mutual to transact insurance for which reinsurance is required under s. 612.33 (2), unless such insurance is totally reinsured; and

(e) Other matters specified in the articles or bylaws.

(2) **SPECIAL NOTICES AND MAJORITIES.** No resolution on any of the matters specified in sub. (1) (c) or (d) is effective unless notice of the matter has been given as required for a special meeting under s. 612.11 (2) (b); nor unless it is approved by at least 25 members and by two-thirds of the members voting on the resolution.

(3) **NOMINATING PROCEDURES.** The articles or bylaws may provide for nominating committees, and for their procedures. Nominations from the floor may not be excluded.

(4) **VOTING PROCEDURES.** (a) *Allocation of votes.* Except under s. 612.10 (1), each member is entitled to one vote. No person may have more than one vote regardless of the number of policies issued to him.

(b) *Proxies.* No member may vote by proxy.

(c) *Mail voting.* The articles or bylaws may provide that votes may be cast by mail, and may prescribe the voting procedure. If voting by mail is authorized, a ballot shall be sent to each member at least 30 days before the meeting at which the decision is to be made, setting out the exact question to be voted upon. A vote signed by a member and delivered before the meeting in accordance with the prescribed voting procedure is equivalent to a vote at the meeting. No question on which there is voting by mail may be amended in any way at the meeting.

NOTE: Membership participation and responsibility is one of the fundamental features of town mutuals, and this section tries to ensure it.

Sub. (1) defines the minimum voting rights of members, covering basically the same matters on which members could vote under ch. 202. Par. (d) adds a voting requirement not in the former statutes but it is added because of an enlargement of the insuring powers of the town mutual. If the management proposes retention of any portion of the third party coverages now authorized, the members should have a chance to express their consent.

Sub. (2) requires more than a majority for certain basic decisions, following ss. 202.01 (4), 202.03 (4) and 201.03 (1) (d). It tries to ensure that these decisions have reasonable support among the members and that they cannot be made by a few members at a poorly attended meeting. It does so by requiring a two-thirds majority and a total vote of approval of at least 25 members. Moreover, such extraordinary matters as are covered by sub. (2) should not be decided without special notice.

Sub. (3) permits establishment of an orderly nominating procedure but preserves floor nominations as a protection against management domination of the election.

Sub. (4) (a) allocates one vote to each member rather than to each policy, as did ch. 202. Sub. (4) (b) continues part of Art. V of the standard articles as formerly prescribed in s. 202.01 (2).

Sub. (4) (c) provides for mail voting, previously provided by s. 202.08 (1) (a) 1. In the circumstances under which most town mutuals operate, mail voting is not likely to be used extensively. However, there is no reason why it should not be authorized. In cases where major decisions are required to be made by a large number of voters, mail voting is a necessity. Mail voting also has obvious possibilities of increasing member participation, which is an important objective for a town mutual, if it is to retain its present characteristics.

612.13 Directors and officers. (1) NUMBER AND CLASSIFICATION. Town mutuals shall have at least 5 directors divided into 3 classes as nearly equal in size as possible.

(2) ELECTION. At each annual meeting one class of directors shall be elected by and from among the members for a term of 3 years.

(3) DUTIES. The board shall manage the business and affairs of the corporation and shall not delegate its power or responsibility to any person except as specifically provided otherwise in this chapter.

(4) ADJUSTMENT COMMITTEE. The directors shall annually appoint from their own number an adjustment committee of at least 3 persons, to adjust or supervise the adjustment of losses under s. 612.53.

(5) DIRECTORS' LIABILITY AND INDEMNIFICATION. Directors who wilfully neglect or refuse for 30 days to perform their duties under s. 612.54 shall be jointly and severally liable to any person sustaining loss by their nonfeasance. Section 611.62 applies to town mutuals.

(6) REMOVAL. (a) *Directors.* A director may be removed from office for cause by an affirmative vote of a majority of the full board at a meeting of the board called for that purpose. The vote of two-thirds of the members of the town mutual present at a meeting called for the purpose may remove a director from office with or without cause.

(b) *Officers.* Section 181.26 applies to town mutuals.

NOTE: Subs. (1) and (2) continue Art. III of the standard articles of organization in s. 202.01 (2); sub. (3) is patterned after s. 611.51 (6). Sub. (4) continues the substance of s. 202.04 (3) but leaves the details to be fixed in the articles or bylaws. The duties of the adjustment committee are prescribed in s. 612.53. Sub. (5) continues s. 202.12 concerning directors' duties in levying assessments. Other violations of the law are subject to the general sanctions provided in s. 601.64 and by the common law. The first sentence of sub. (6) (a) tracks s. 611.53 (3); the second sentence is new. Par. (b) makes it clear that an officer may be removed by the board without cause, subject to any contract rights that may exist.

612.14 Reports. The secretary and the treasurer shall present to the annual meeting written reports showing the condition of the town mutual on the previous December 31 and its activity during the preceding calendar year, including:

- (1) The number of policies issued and in force by line of insurance;
- (2) The aggregate amount insured by line of insurance;
- (3) The amount of cash and other assets on hand;
- (4) The amount received during the year from premiums, and the reserve for unearned premiums;
- (5) The amounts received from each separate assessment;
- (6) The amounts assessed but not collected;
- (7) The amounts received from other sources;
- (8) The amounts paid for losses;
- (9) A detailed list of every item of expense, except that the report may summarize the expenses, if they are audited by a committee of members or by an independent person in a manner approved by the commissioner;
- (10) The amount of losses incurred but not paid;
- (11) Any other outstanding liabilities, including debit balances with spread loss organizations or other reinsurers; and
- (12) Any other information required to be presented by the articles or bylaws or by the commissioner.

NOTE: This section consolidates the information required in the 2 reports, formerly prescribed in s. 202.14, with some modifications. These reports are for the information of members. Reports and financial statements for regulatory purposes can be required by the commissioner under s. 601.42. The form and instructions for the reports prescribed in this section should be promulgated by rule, in view of the town mutuals' need for technical assistance. So also the responsibility for the required information should be allocated between the 2 officers by rule, subject to the power of the town mutual itself to alter the allocation through bylaws or by directive of the board.

612.15 Supervision of management changes. (1) **ELECTIONS.** (a) *Report.* The name and residence of each person selected as a director or officer of a town mutual, and such pertinent biographical data and financial information as the commissioner may reasonably require by rule, shall be reported to the commissioner immediately after the selection.

(b) *Disapproval.* The commissioner, after a hearing called within 30 days after receipt of a report under par. (a), may disapprove any person selected who for any reason is unqualified to serve, who is not trustworthy or who lacks the competence and experience necessary to discharge his responsibilities.

(2) **REPORT OF REMOVAL.** Whenever the board or a member's meeting removes a director or officer under s. 612.13 (6) or otherwise before the expiration of his term, the board shall promptly report to the commissioner the removal and a statement of the reasons therefor.

(3) **REMOVAL BY COMMISSIONER.** If the commissioner finds, after a hearing, that a director or officer is for any reason unqualified to serve, is incompetent or untrustworthy, or has wilfully violated this code, a rule promulgated under s. 601.41 (3) or an order issued under s. 601.41 (4), and that thereby the interests of members or of the public are endangered, he shall by order remove the director or officer.

(4) **CHANGES OF PLACE OF OFFICE.** If the articles designate the residence or business address of a specified corporate officer as the place of the principal office of the town mutual, any change of such address shall be reported promptly to the commissioner.

NOTE: This section parallels closely s. 611.54. It will seldom be applied but is a necessary protective device.

612.16 Exclusive agency and management contracts. Sections 611.66 and 611.67 apply to town mutuals.

NOTE: Exclusive agency and management contracts have not been a problem among town mutuals. There should be a guarantee of the continuance of this good record, however. Since such contracts are expressly prohibited for commercial corporations in ss. 611.66 and 611.67 it seems useful to have parallel provisions here for clarification. Section 612.16 incorporates those provisions for application to town mutuals.

612.18 Transactions in which directors and others are interested. Section 611.60 applies to town mutuals.

NOTE: Though the problems of s. 611.60 will occur only rarely, if at all, with town mutuals, the law should anticipate their possibility.

612.21 Merger and consolidation of town mutuals. (1) **CONDITIONS FOR MERGER OR CONSOLIDATION.** Two or more town mutuals authorized to operate in all or part of the same or in contiguous territories not exceeding 8 counties altogether may merge into one of the constituent town mutuals, or may consolidate into a new town mutual, under the procedure provided in this section.

(2) **PLAN OF MERGER OR CONSOLIDATION.** The board of each participating town mutual shall adopt the same plan of merger or consolidation by resolution stating:

- (a) The reasons for and the purposes of the proposed action;
- (b) The proposed terms, conditions and procedures for and estimated expenses of implementing the merger or consolidation;
- (c) The proposed name of the surviving or new town mutual and the location of its principal office; and
- (d) The proposed articles and bylaws for the surviving or new town mutual.

(3) **APPROVAL BY COMMISSIONER.** Each of the participating town mutuals shall file with the commissioner for his approval a copy of the resolution and any explanatory statement proposed to be issued to the members, together with so much of the information under s. 612.02 (4) for the surviving or new town mutual as he reasonably requires. The commissioner shall approve the plan unless he finds, after a hearing, that it would be contrary to the law, or that the surviving or new town mutual would not satisfy the requirements for a certificate of authority under s. 612.02 (6), or that the plan would be contrary to the interests of insureds or of the public.

(4) **APPROVAL BY MEMBERS.** After being approved by the commissioner under sub. (3), the plan shall be submitted for approval to the members of each participating town mutual in a special joint meeting to be held within the territorial limits of one of the participating town mutuals. The members of each town mutual shall vote separately.

(5) **ELECTION OF DIRECTORS.** After a plan of consolidation is approved, the joint meeting shall elect the directors of the new town mutual.

(6) **REPORTS TO COMMISSIONER.** Each participating town mutual shall file with the commissioner a copy of the resolution adopted under sub. (4), stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately in each case the mail votes and the votes cast in person. Any election of directors under sub. (5) shall also be reported to him.

(7) **CERTIFICATE OF AUTHORITY.** If the requirements of the law are met, the commissioner shall issue a certificate of authority to the surviving or new town mutual. Thereupon the nonsurviving town mutuals shall cease their legal existence, the corporate existence of any new town mutual shall begin, and any directors elected under sub. (5) shall take office. The surviving or new town mutuals shall have all the assets and be liable for all of the obligations of each of the participating town mutuals.

NOTE: This section continues s. 202.03 with minor changes. One of them is sub. (3), which limits the grounds on which the commissioner may refuse approval. Section 202.03 (2) only requires that the commissioner shall "state his reasons" but sets no standards. The grounds for disapproval are patterned after s. 612.02 (6). The subsection also seeks to provide the commissioner with adequate information about the proposed combined operation. It is reasonable to require that the company resulting from the merger or consolidation satisfy all the requirements established for a newly formed town mutual, including the existence of an appropriate surplus, incorporated from s. 612.02 (5) by s. 612.02 (6).

With respect to the surplus requirement it might be argued that it would preclude mergers for the smaller and weaker companies -- those that would benefit most from such action. Merger may be very useful as a rehabilitative device. However, it would not be justified to eliminate the surplus requirement from sub. (3) nor to authorize the commissioner to grant individual exemptions in hardship cases. Rehabilitation is not likely to be effective unless it results in a company sound enough to satisfy the surplus requirement for a new company.

Another change eliminates the requirement of certification of the resolutions -- a pointless, even if harmless, oddity of the past. Under s. 601.42 (2) and (5), the commissioner may always require verification if necessary.

612.22 Merger and consolidation of town mutuals into mutual insurance corporations. (1) **CONDITIONS FOR MERGER OR CONSOLIDATION.** One or more town mutuals may merge or consolidate with a single domestic mutual under ch. 611. The surviving or new corporation shall be a mutual under ch. 611.

(2) **PLAN OF MERGER OR CONSOLIDATION.** The board of each participating corporation shall adopt the same plan of merger under s. 181.42 (2) or plan of consolidation under s. 181.43 (2), by resolution stating:

- (a) The reasons for and the purposes of the proposed action;
- (b) The proposed terms, conditions and procedures for and estimated expenses of implementing the merger or consolidation;
- (c) The proposed name of the surviving or new corporation and the location of its principal office; and
- (d) The proposed articles and bylaws for the surviving or new corporation.

(3) **APPROVAL BY COMMISSIONER.** Each of the participating corporations shall file with the commissioner for his approval a copy of the resolution and any

explanatory material proposed to be issued to the members, together with so much of the information under s. 611.13 (2) for the surviving or new corporation as he reasonably requires. The commissioner shall approve the plan unless he finds, after a hearing, that it would be contrary to the law, or that the surviving or new corporation would not satisfy the requirements for a certificate of authority under s. 611.20, or that the plan would be contrary to the interest of insureds or of the public.

(4) **APPROVAL BY MEMBERS OF THE TOWN MUTUALS.** After being approved by the commissioner under sub. (3), the plan shall be submitted to the members of the participating town mutuals for their approval. The members of each shall vote separately.

(5) **ELECTION OF DIRECTORS.** A plan of consolidation shall contain a provision for prompt election of directors if the plan goes into effect. If the plan is approved by the members of each town mutual and by the board of the mutual, directors shall be elected promptly.

(6) **REPORTS TO COMMISSIONER.** Each participating town mutual shall file with the commissioner a copy of the resolution adopted under sub. (4), stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately in each case the mail votes and the votes cast in person. Any election of directors under sub. (5) shall also be reported to him.

(7) **CERTIFICATE OF AUTHORITY.** If the requirements of the law are met, the commissioner shall issue a certificate of authority to the surviving or new mutual in case of consolidation, and a letter confirming completion of the merger process in case of a merger. Thereupon the nonsurviving corporations shall cease their legal existence, the corporate existence of any new mutual shall begin, and the directors elected under sub. (5) shall take office. The surviving or new mutual shall have all the assets and be liable for all of the obligations of each of the participating corporations.

NOTE: This continues s. 201.03 with the procedure adapted to s. 612.21 and, so far as the participating mutual is concerned, to ch. 611. As in s. 612.21, the grounds for disapproval are limited in sub. (3). In this section, also, the obsolete certification requirement is omitted.

612.23 Conversion of town mutuals into mutual insurance corporations. One or more town mutuals may be converted into a single mutual insurance corporation under ch. 611, as follows:

(1) **CONVERSION PLAN.** The boards of the town mutuals shall adopt the same plan of conversion by resolution stating:

- (a) The reasons for and the purposes of the proposed action;
- (b) The proposed terms, conditions and procedures and the estimated expenses of implementing the conversion;
- (c) The proposed name of the corporation; and
- (d) The proposed articles and bylaws.

(2) **APPROVAL BY COMMISSIONER.** The town mutuals shall file with the commissioner for his approval the plan together with so much of the information under s. 611.13 (2) as the commissioner reasonably requires. The commissioner shall approve the plan unless he finds, after a hearing, that it would be contrary to the law, that the new mutual would not satisfy the requirements for a certificate of authority under s. 611.20 or that the plan would be contrary to the interests of insureds or of the public.

(3) **APPROVAL BY MEMBERS.** After being approved by the commissioner, the plan shall be submitted to the members of each town mutual for their approval.

(4) **ELECTION OF DIRECTORS.** A plan of conversion shall contain a provision for prompt election of directors if the plan goes into effect. If the plan is approved by the members of each town mutual, directors shall be elected promptly.

(5) **REPORTS TO COMMISSIONER.** Each town mutual shall file with the commissioner a copy of the resolution adopted under sub. (3), stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately in each case the mail votes and the votes cast in person.

(6) **CERTIFICATE OF AUTHORITY.** If the requirements of the law are met, the commissioner shall issue a certificate of authority to the new mutual. Thereupon the nonsurviving town mutuals shall cease their legal existence, the corporate existence of any new mutual shall begin, and the directors elected under sub. (4) shall take office. The new mutual shall have all the assets and be liable for all of the obligations of each of the participating town mutuals. The commissioner may grant a period not exceeding one year for adjustment to the requirements of ch. 611, specifying the extent to which particular provisions of ch. 611 shall not apply.

NOTE: This section is new. It provides a procedure for those town mutuals whose members want conversion for any reason, including a desire for a broader scope of coverages and a wider spread of risks than is possible within the limits provided by this chapter. Until now, if a town mutual wanted to convert into an "ordinary" mutual corporation, the members had to organize an entirely new ordinary mutual, make new insurance contracts with the new corporation, and then liquidate the old town mutual. Two such indirect conversions have occurred in recent decades. The provision proposed here is intended to provide a more convenient and expeditious procedure.

The essential conditions for a conversion are that the corporation meets all the requirements established by ch. 611 for "ordinary" mutuals and that the members want the change. The required majority of two-thirds is the same as for mergers and dissolution. See s. 612.12 (2).

The third sentence of sub. (6) authorizes the commissioner to grant an adjustment period of up to one year during which the corporation could, e.g., adapt its policy forms to any different requirements that might be applicable to "ordinary" mutuals.

612.24 Transfer of business. (1) **APPROVAL BY MEMBERS.** No action by which a town mutual proposes to transfer to another person or to reinsure any part of its insurance business, other than in the normal and usual course of business, or to sell, lease, exchange, mortgage, pledge or otherwise dispose of all or substantially all of its assets, shall be effective unless approved by the members.

(2) **REPORT TO COMMISSIONER.** The town mutual shall file with the commissioner a copy of any resolution under sub. (1) not less than 30 days in advance of the date of the action proposed to be taken under the resolution, with a statement of the number of members entitled to vote, the number of members voting and the number voting to approve the transfer, stating separately mail votes and votes cast in person. The commissioner may defer the effective date for an additional period not exceeding 30 days by written notice to the town mutual before the expiration of the initial 30-day period.

(3) **DISAPPROVAL.** The commissioner may, within the 30-day period or its extension, prohibit the proposed action if it is contrary to law or to the interests of insureds or the public or if it will make possible the circumvention of any of the requirements of this code. He shall prohibit a transfer of all or substantially all of the business unless it is accompanied by a plan for voluntary dissolution under s. 612.25.

NOTE: This section closely parallels s. 611.78. It also replaces the part of s. 201.03 (10) not covered in s. 612.22. It is hardly necessary for the smaller town mutuals, but for the larger ones is as relevant as for commercial mutuals. Member approval requires a two-thirds majority. See s. 612.12 (2). This is a requirement not imposed upon the larger and presumably more sophisticated corporations under ch. 611.

612.25 Voluntary dissolution of town mutuals. A town mutual may be dissolved in the following way:

(1) **PLAN FOR DISSOLUTION.** The board shall adopt a plan for dissolution stating:

- (a) The reasons for the proposed action;
- (b) The proposed terms, conditions and procedures for and estimated expenses of implementing the dissolution; and
- (c) The financial condition of the town mutual, in such detail as the commissioner reasonably requires.

(2) **SUBMISSION TO COMMISSIONER.** The town mutual shall file with the commissioner the plan and any explanatory statement proposed to be issued to the members. The commissioner may require that any additional information reasonably necessary to enable the members to make a decision be added to the proposed explanatory statement.

(3) **APPROVAL BY MEMBERS AND COMMISSIONER.** The plan shall thereupon be submitted to the members. If the members adopt the plan, the corporation shall file with the commissioner for his approval a copy of the resolution of the members, stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately the mail votes and the votes cast in person. The commissioner shall approve the plan unless he finds, after a hearing, that the town mutual is insolvent or may become insolvent in the process of dissolution unless it makes an assessment. If an assessment would be required, the commissioner shall institute proceedings under s. 645.41 (10)

(4) **IMPLEMENTATION OF PLAN.** When the plan has been completely implemented, that fact shall be reported to the commissioner and he shall certify that the town mutual no longer has a legal existence.

(5) **CONVERSION TO CHAPTER 645 LIQUIDATION.** If it appears at any time that the approved dissolution plan cannot be implemented according to its terms, or that there are grounds for involuntary liquidation, the commissioner may petition under s. 645.41 for liquidation of the town mutual.

NOTE: This procedure follows fairly closely that of s. 611.74, but adapted to the special circumstances of town mutuals. Any town mutual should be permitted to engage in a voluntary dissolution only if it can do so without the need for an assessment. If the latter is required, the dissolution should be under ch. 645.

612.31 Authorized business. (1) **PROPERTY INSURANCE.** (a) *General.* Subject to other provisions of this section, a town mutual may insure a member against loss or damage from any cause to any property in which the member has an interest.

(b) *Extensions.* 1. Insurance authorized under par. (a) may include insurance against loss of use of or loss of income from property including interruption of business activity caused by loss or damage to the property.

2. Insurance authorized under par. (a) may include replacement cost coverage.

(2) **LIMITATIONS ON PROPERTY INSURANCE.** (a) *Windstorm and hail insurance.*

1. No town mutual may insure a member against loss to growing crops by windstorm or hail.

2. No town mutual may insure a member against loss to property by windstorm or hail unless approval of the members is obtained under s. 612.12.

3. A town mutual insuring a member against loss to property by windstorm or hail must obtain reinsurance under s. 612.33 (2) (a).

(b) *Burglary and plate glass.* A town mutual may insure a member against loss of property by burglary or theft or against the breakage of glass whether in a specified location or in transit but may do so only as a coverage supplemental to fire and extended coverage insurance on the property.

(c) *Limitations by rule.* The commissioner may by rule exclude any insurance authorized under sub. (1) or (3) if he finds that it cannot be successfully transacted by town mutuals without endangering the interests of insureds or the public.

(3) **NONPROPERTY INSURANCE.** Subject to the voting requirement of s. 612.12 (1) (d) and the reinsurance requirement of s. 612.33 (2), a town mutual may include any of the following as supplementary coverage to property insurance written under sub. (1):

(a) *Liability insurance.* Insurance against loss or damage for which the insured is liable caused by the sickness, personal injury or death of any other person or by loss or damage to the property of the other person.

(b) *Errors and omissions.* Insurance against loss, expense and liability resulting from errors, omissions or neglect in the performance of any official, vocational or professional service, except loss or damage covered by par. (a).

(c) *Medical payments and other supplemental insurance.* Insurance against loss, damage and expense, including loss of time, arising out of bodily injury to, or sickness, disease or death of the insured or another person, caused by accident, for which the insurer assumes an obligation to pay irrespective of the member's legal liability therefor.

(4) **EXCLUDED BUSINESS.** Town mutuals may not transact the following insurance business:

(a) Life insurance and annuities;

(b) Disability insurance except under sub. (3) (a) and (c);

(c) Liability insurance except under sub. (3) (a) and (b);

(d) Automobile liability insurance except under sub. (3) (a);

(e) Workmen's compensation insurance;

(f) Elevator liability or steam boiler liability insurance;

- (g) Ocean marine insurance;
- (h) Inland marine insurance except as a supplementary coverage to property in a fixed location insured under sub. (1);
- (i) Fidelity or surety insurance;
- (j) Credit insurance;
- (k) Mortgage guaranty insurance;
- (L) Title insurance;
- (m) Assuming reinsurance, except under sub. (6); or
- (n) Loss, damage or liability caused by nuclear reaction or nuclear radiation or radioactive contamination, whether directly or indirectly resulting from an insured peril under the policy.

(5) **WRITING OF PRO RATA INSURANCE.** Two or more town mutuals may together write an insurance policy with each town mutual severally assuming a pro rata share of the total coverage, if except for territorial limitations each participating town mutual has the power to write risks of the kind covered in the policy. One of the town mutuals that satisfies the territorial rules of s. 612.32 shall be designated by the policy as the originating insurer responsible for collecting the premiums and adjusting the losses on behalf of all participants. The policyholder shall be liable to assessments in each insurer but shall have voting rights only in the originating insurer. Each policy shall contain a provision advising the policyholder that there are other participating insurers and of his right to obtain their names, addresses and extent of their participation. Pro rata insurance under this subsection is not reinsurance under sub. (4) (m) or s. 612.33 (1).

(6) **ASSUMING REINSURANCE.** One town mutual may assume reinsurance from another if:

- (a) The commissioner approves the assuming reinsurer as one qualified to assume reinsurance;
- (b) The commissioner approves the reinsurance contract in advance;
- (c) The portion of the insurance contract assumed is, apart from territorial limitations, within the insuring authority of the reinsurer as determined by this chapter and any rules promulgated hereunder; and
- (d) The ceding town mutual does not have voting rights in the reinsurer but pays the same advance premiums and is subject to assessment by the reinsurer on the same basis as members.

(7) **SPECIAL REQUIREMENTS.** The commissioner may, as a condition for transacting specified types of business, establish by rule special requirements concerning minimum surplus, the minimum number of members or insured risks, the operating territory, required reinsurance, and approval by a specified percentage of the members, so far as such requirements are necessary to protect the interests of insureds and the public.

(8) **LIMITATIONS ON RISKS.** Section 201.16 (1) applies to town mutuals.

NOTE: This section defines the necessary limitations upon the business that a town mutual may transact. This determination is subject to many different and conflicting considerations. Most important, it has to be determined which types of business are consistent with the nature of the town mutual

operation, and which types of business would destroy that nature. There is not complete agreement on these questions.

The approach taken in this section deviates from the former law in two respects. While s. 202.01 (1) enumerated those lines or kinds of insurance that might be transacted by a town mutual, by implication excluding other lines, this section, in subs. (1) to (3), provides for basic statutory authorization, with power in the commissioner under sub. (2) (c) to make exceptions by rule. Sub. (4) lists lines that may not be transacted by a town mutual. Under former law, the limits of town mutuals' underwriting powers were not well defined, despite the definitions of s. 201.04 and the extension of power under s. 203.28 for fire insurers. Ambiguities that appear here can be clarified by interpretive rules.

In promulgating a rule, the commissioner should consider whether proposed kinds of business would be inconsistent with the nature of town mutuals. The rule-making procedure permits more expeditious adjustment to changes in market conditions and consumer preferences, and to problems that appear. For instance, it would be much easier to adapt to the further development of packaged coverages, or to meet other new demands, like insurance on snowmobiles.

Sub. (5) defines the power to participate with other town mutuals in insurance too large for one of them alone. Town mutuals have traditionally exchanged reinsurance with each other, but such arrangements resulted under former law in the insured having direct rights only against the ceding company, in the ceding company becoming itself assessable in the operation of the assuming company, with consequent uncertainty both about capacity of the ceding company to respond and about liabilities *inter se*. The protection afforded to the member by reinsurance was purchased at the cost of other insureds of subjecting to an undetermined extent all members of the direct insurer to the reinsurer's book of business, too. Subsection (5) simplifies the procedure by permitting town mutuals to split up the direct coverage vertically among a number of companies. This practice is common in commercial insurance, and is the preferred way to handle large risks.

However, reinsurance exchanged among town mutuals is well-established. Sub. (6) permits continuation of that practice, with some added safeguards, including considerable control of the reinsurance by the commissioner.

Sub. (7) authorizes the commissioner to establish special conditions for the transaction of certain kinds of business. This seems necessary in view of the great differences in solidity that exist among the town mutuals. What is a perfectly sound and desirable extension of business for one company may be a risky and dangerous adventure for another. Reasonably flexible and discretionary guidance by the commissioner is necessary to compensate for the lack of expertise in many town mutuals.

Sub. (8) continues former law, in s. 202.06 (2).

612.32 Territory. No town mutual may insure any risks located outside the territory authorized in its articles, except:

(1) **REAL PROPERTY OUTSIDE TERRITORY.** Town mutuals may insure real property and contents owned by a member immediately adjoining and contiguous to land owned by the same member which is within the specified territory, and real property and contents used exclusively by the member and his family for recreational

purposes. Recreational property may not be insured for a greater amount than 50% of the amount for which the member's dwelling and related buildings are insured.

(2) **TEMPORARY REMOVAL.** (a) *Farm property.* A town mutual may provide coverage for livestock, farm products, farm machinery and farm vehicles while temporarily located, for a period not exceeding 6 months, outside its territory, subject to limitations in the policy or in the articles or bylaws with respect to the distance from the territory to which the property may be removed without suspension of the coverage.

(b) *Household property.* A town mutual may provide coverage for household goods and effects and other personal property while temporarily removed from the location stated in the policy, whether within or outside the town mutual's territory.

(3) **NONPROPERTY COVERAGE.** A town mutual may write nonproperty insurance under s. 612.31 (3) without regard to its territorial limits provided the coverage is included in a policy providing principally coverage under s. 612.31 (1) on property within its territory.

(4) **PRO RATA INSURANCE AND REINSURANCE.** Nothing in this section prevents a town mutual from participation in pro rata insurance or reinsurance under s. 612.31 (5) or (6).

NOTE: This section continues s. 202.06 (1) and (4m), but removes the 10% limitation on value of removed property from the latter. A particular town mutual may wish to continue the 10% limit, or the commissioner may continue it through his control over policy forms, but there is no point in making it an arbitrary limit permanently embedded in the statute. The modifier "farm" is made clearly applicable to machinery and vehicles, as must have been the intention of the existing law, though an ambiguity does now exist.

The power to insure detached recreational property is new but helps make a market for difficult-to-place real property. If the recreational property has a high value (over 50%) in relation to the home property, the member should seek his insurance on the recreational property where it is located.

612.33 Reinsurance. (1) **PERMITTED AND PROHIBITED REINSURANCE.** A town mutual may cede reinsurance only under s. 612.31 (6), or to an insurer authorized to do business in this state under s. 612.71 or ch. 611 or 618, or under arrangements which are approved in advance by the commissioner and are subject to such controls as he prescribes.

(2) **REQUIRED REINSURANCE.** (a) *Windstorm and hail insurance.* If a town mutual provides coverage against windstorm or hail, or other perils involving a similar potential for catastrophic losses, which are designated by the commissioner by rule, it shall obtain reinsurance for each such risk or else stop-loss reinsurance with an insurer authorized to do such business in this state, to an extent reasonably adequate to cover the risk of catastrophic losses. The commissioner may prescribe detailed requirements for such reinsurance by rule or by order.

(b) *Nonproperty insurance.* To the extent that a town mutual provides insurance under s. 612.31 (3), it shall obtain reinsurance of at least a 90% pro rata share of each risk with an insurer authorized to do such business in this state. The commissioner may permit a town mutual to retain a larger percentage if he finds that the interests of the members will not be endangered thereby, or may require it to reinsure a larger percentage if he finds that the interests of the members make it advisable.

(c) *Information for policyholder.* Each policy providing coverage reinsured under par. (a) or (b) where the reinsurance is specifically applicable to the policy shall contain a clause advising the policyholder of the existence of the reinsurance and of his right to obtain the name and address of the reinsurer and the terms of the reinsurance.

(d) *Contents of reinsurance contract.* Each required reinsurance contract that is specifically applicable to particular direct policies shall contain the following provisions:

1. That any claimant who could maintain an action against the town mutual may maintain an action against the town mutual, the reinsurer, or both, and that the claimant may recover from the reinsurer in the same way that he could recover from the town mutual; and

2. That there shall be no diminution in the amount recoverable from the reinsurer under subd. 1 as a result of any delinquency proceedings pertaining to the town mutual, nor as a result of a breach of the reinsurance contract by the town mutual.

(e) *Approval of reinsurance contract.* Every reinsurance contract required under this subsection shall be on a form approved by the commissioner under s. 612.51. The commissioner shall approve the form unless he finds that it would be contrary to the law or to the interests of insureds or the public.

NOTE: Sub. (1) limits reinsurance for town mutuals. Cession must be under s. 612.31 (6) or to reinsurers authorized to do business in this state (a stricter requirement than for ch. 611 companies) or under special authorization. Reciprocal exchange of reinsurance is permitted by s. 612.31 (6), under appropriate safeguards, and pro rata direct insurance is permitted under s. 612.31 (5). Under sub. (1) the commissioner may also authorize arrangements such as the Mutual Spread Loss Association. The latter needs special authorization since it does not meet the usual standards of this code by incorporation under ch. 611, authorization under ch. 618, or incorporation under s. 612.71. In addition the commissioner may permit other unspecified reinsurance devices if they meet standards which protect the interests of the town mutual and its members. Any resulting liabilities must be properly reflected in the books of the town mutual. The commissioner has full regulatory power over the arrangement, as he should.

Sub. (2) (a) preserves the reinsurance requirement for windstorm coverage now contained in s. 202.08 (1) (a) 2 but leaves the details to be fixed by rule.

Par. (b) continues the reinsurance requirement established in s. 202.06 but limits it to the coverages now described in s. 201.04 (5) and (18), and also permits but does not require a small 10% pro rata assumption of risk. There is no reason why a town mutual should not write burglary and plate glass insurance on its own account, if it desires to do so, and as ss. 612.31 (1) (a) and 203.28 permit now.

The commissioner may establish additional reinsurance requirements under s. 612.31 (7).

Par. (c) provides for information to be given to the policyholder and par. (d) for the approval of the contents of the reinsurance contract essentially as under s. 202.08 (1) (c).

612.34 Rates. (1) **REGULATION OF ASSESSMENTS.** Town mutuals need not file information under ch. 625 about special assessments unless ordered to do so by rule or order of the commissioner.

(2) **CLASSIFICATIONS.** No classification plan for the purpose of determining premiums or assessment shares may be used unless it has been approved by the commissioner. The commissioner shall approve the plan unless he finds that it would be contrary to the law, including the standards of s. 625.11, or contrary to the interests of insureds or of the public.

(3) **MANDATORY ADVANCE PREMIUMS.** Notwithstanding members' liability for subsequent assessments under s. 612.54, town mutuals shall charge advance premiums expected to be adequate for any insurance for which they must obtain reinsurance under s. 612.33 (2) (b).

NOTE: Under s. 625.03, town mutuals were already subject to rate regulation. But they should not ordinarily have to file information about special assessments. Sub. (1) makes it clear that is unnecessary. Sub. (2) adapts the principle of s. 202.08 (2). Sub. (3) continues and generalizes the advance premium requirement of s. 202.08 (1) (c) 2.

612.35 Borrowing and repayment. A town mutual may borrow money to pay losses or expenses, but before obtaining a loan which would bring its indebtedness, including debit balances from reinsurance arrangements under s. 612.33 (1) above 50% of its assets including assessments levied and collectible which are not overdue, it shall report the amount and purpose of the loan and all outstanding loans and debit balances to the commissioner. The commissioner may thereupon order the town mutual to levy an assessment to repay its indebtedness, establish a surplus, or both, within a reasonable time not less than 60 days after notice.

NOTE: This replaces s. 202.11 (3) but simplifies it and removes the obsolete technicalities with which that provision has been burdened.

612.36 Investments. Town mutuals are subject to ch. 620 but shall be restricted as provided in s. 620.03 (1) unless individually exempted by the commissioner under s. 620.03 (2). In applying the restrictions of ch. 620 all assets of town mutuals shall be treated as if they were required to satisfy the compulsory surplus requirement, except to the extent that the commissioner by rule determines otherwise.

NOTE: Section 202.06 (5) authorizing loans on notes without any collateral is eliminated as unjustified and dangerous. Insurers operating on a pure and simple assessment plan usually have few assets to invest -- all they need is some money in the bank to pay claims and expenses between one assessment and the next. Reserves did not need to be set up nor surplus maintained by town mutuals under former law. However, many town mutuals voluntarily accumulated surplus, and this law is designed to encourage that practice. Moreover, this law (SECTION 5, amending s. 201.18 (2)) requires town mutuals to set up unearned premium reserves if they collect advance premiums, so that their balance sheets will accurately reflect their assets and liabilities, which they have not done in the past. Assets representing such reserves have to be invested properly, all the more since the managers of town mutuals cannot be expected to have as much investment expertise as is presupposed for commercial insurers by ch. 620. It seems necessary and justified to treat them generally like new companies, and to subject them permanently to an increased degree of investment control by the commissioner, as provided in s. 620.03. Most of the restrictions under ch. 620 generally and those under s. 620.03 specifically are concerned only with the investment of those assets necessary for the satisfaction of the compulsory surplus requirement. To be sure that the funds of town mutuals will be

subjected to the compulsory surplus rules, an express provision to that effect is included.

Some relaxation of investment rules seems justified at one point, in order to preserve a traditional investment practice that has developed among town mutuals over the years. Many town mutuals have invested their surplus funds in shares of a special mutual fund, "Insurors' Mutual Fund, Inc.", which is collectively owned exclusively by town mutuals. The amounts invested in such shares in many cases exceeds the limit of 10% of assets imposed by proposed s. 620.23 (2) (b). If some reasonable supervision of the management of the fund can be guaranteed, it is justified to increase the percentage of the assets that can be invested in this fund to a larger figure. A rule can be promulgated to raise the percentage. The fund, as currently operated, provides adequate diversification.

612.51 Contract forms. (1) **APPROVAL REQUIRED.** No town mutual may use any policy form, including a rider, endorsement or special clause, nor any application form, unless it has been approved by the commissioner. The commissioner shall approve the form unless he finds:

(a) That it is unjust, unfair, inequitable, unfairly discriminatory, misleading, deceptive, obscure or encourages misrepresentation or misunderstanding of the contract, including cases where the form:

1. Provides coverage or benefits that are too restricted to achieve the purposes for which the policy is designed;
2. Introduces variations from traditional forms that obscure or lessen competition;
3. Fails to attain a reasonable degree of readability, simplicity, conciseness and integration of supplementary with basic forms; or
4. Is misleading, deceptive or obscure because of its physical aspects such as format, typography, style, color, material or organization;

(b) That it provides coverage or benefits or contains other provisions that would endanger the solidity of the insurer;

(c) That in the case of the policy it fails to provide the exact name of the insurer and the full address of its home office; or

(d) That it violates a statute or a rule promulgated by the commissioner, or is otherwise contrary to law.

(2) **RULES.** The commissioner may by rule prescribe forms to be used for policies, applications or for particular clauses.

(3) **ARTICLES AND BYLAWS.** The articles and bylaws shall be attached to or clearly incorporated by reference in every policy issued by a town mutual. They may be incorporated by reference only if each new member is supplied a copy of them and each policy specifies how additional copies may be obtained.

(4) **LIMITED COVERAGE.** Recovery as to any or all items of personal property insured under a policy may be limited to a percentage of the value at the time of the loss, by a clearly expressed statement to that effect in that policy.

NOTE: Under sub. (2), the commissioner should immediately promulgate a policy similar to the present standard fire policy form. Later, changes can be made and new forms promulgated. The contracts of town mutuals should be as similar as possible to those of other insurers. Proposed chs. 631 and 632

are designed to cover all contracts including those of town mutuals. When those chapters are enacted, this section will no longer be necessary and should be repealed.

612.52 Undertaking to pay premiums and assessments. No town mutual may issue a policy unless the prospective member has signed an undertaking in which he agrees to pay the advance premiums for any insurance on his behalf and any assessment which may be levied upon him in accordance with the terms of the policy, the articles, the bylaws, the statutes, and the reasonable expenses of collecting from him the assessment and any reasonable penalties for nonpayment. The undertaking may provide that for such collection the member shall waive any exemptions otherwise applicable to the property covered by the policy.

NOTE: This continues, in a simpler form, s. 202.09, while softening it with respect to the waiver of exemptions. It makes an application unnecessary for each renewal, though caution will usually lead the company to procure one. Serious questions arise about the proper balance of public policy between protection of the citizen by exemptions and effective enforcement of personal obligations against him; this section tries to strike such a balance by making the undertaking inapplicable to property unrelated to the insurance, so far as exemptions are concerned.

612.53 Loss adjustment. (1) RULES. The commissioner may promulgate rules for loss adjustment procedures.

(2) ADMINISTRATION OF OATHS BY SECRETARY. The secretary of a town mutual may, without compensation, administer oaths and take acknowledgments necessary to adjust claims against the town mutual.

NOTE: Sub. (1) relegates the adjustment procedures now in s. 202.10 (1), to rules. Section 202.10 (2) has been dropped as an unnecessary repetition of a matter regulated by the policy, with the exception of the last sentence which was misplaced and appears now in sub. (2).

612.54 Assessments. (1) CONDITIONS FOR LEVYING ASSESSMENTS. (a) *Mandatory assessments.* The board of a town mutual shall levy an assessment whenever the amount of any loss or expense that is due exceeds the assets or whenever any required surplus is impaired.

(b) *Optional assessments.* The board may at any time levy assessments as provided in the articles, for the purpose of paying losses or expenses, repaying borrowed money or creating a reasonable surplus.

(2) LIMITATIONS ON ASSESSABILITY. The commissioner may by order authorize a town mutual to limit assessability of policies to a multiple of the advance premium if the town mutual's surplus and business practices satisfy him of its solidity even with the limited assessability.

(3) CLASSIFICATION. Assessments may be levied at the same rate on all members or according to a classification plan approved under s. 612.34 (2). Assessments other than for the purpose of creating a surplus may also be levied on persons whose membership has terminated within a period not exceeding 8 months prior to the date of the assessment.

(4) NOTICE. Notice of any assessment shall be sent by mail to each person subject to it, at least 30 days prior to the date it is payable. The notice shall state:

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- (a) The rate of the assessment and the class of business or coverage to which it applies;
- (b) The reason for the assessment;
- (c) The amount to be paid by the individual person;
- (d) The date on which the assessment is due;
- (e) The person to whom payment is to be made; and
- (f) The consequences of failure to pay, as provided in sub. (5).

(5) CONSEQUENCES OF DEFAULT. (a) ~~Penalty.~~ Every person who fails to pay his assessment within the time specified in the notice under sub. (4) shall pay to the town mutual a penalty of 2% of the assessment for each week or part thereof during which the assessment remains unpaid, until the accumulated penalty equals 100% of the assessment. Thereafter the amount of the assessment and accumulated penalty shall bear interest at the legal rate.

(b) *Termination of coverage.* If, at the time of a loss, any assessment any part of which is to cover losses or expenses already incurred under the same policy or under a previous policy covering the same property and the same insureds has remained unpaid in any part for 30 days after it is due, the loss shall not be paid except to a mortgagee under a mortgagee clause that provides for payment despite policy defenses. The policy shall also terminate after the loss. This paragraph shall apply only to any assessment some part of which is to cover incurred losses or expenses.

(c) *Enforcement.* An assessment shall constitute a personal obligation of each member and payment may be enforced by appropriate action.

(6) NOTICE TO MORTGAGEE. If losses under any policy are payable to a mortgagee despite default on an assessment and the assessment on the policy is not paid within the time specified in the notice to the member, the secretary shall, within 30 days after the expiration of such time, give like notice to the mortgagee. If the mortgagee pays the assessment within 20 days from the date of notice, the policy shall continue in force, as to the mortgagee's interest only, until the expiration of its regular term, subject to subsequent assessments of which the mortgagee is notified, and to cancellation by either party.

NOTE: This section continues in somewhat simplified form the substance of ss. 202.11, except for sub. (3), and 202.12. Section 202.11 (3) is continued in s. 612.35. Sub. (4) (f) is new but is desirable as a matter of fairness, especially in view of the new protective provisions in s. 631.36. Sub. (6) is the same as s. 202.11 (2) (b). It might be argued that the termination of coverage in sub. (5) (b) is a very harsh penalty. On the other hand it must be recognized that these insurers are brotherhoods dependent on timely payment of assessments and that strong leverage is justified to secure payment in the occasional situation where payment is resisted. However, this is true only for assessments in the narrow sense, that is, those covering incurred expenses and losses. Assessments intended to provide for future losses or expenses or to create surplus are in reality advance premiums and should not trigger the harsh sanction of termination without notice. Rather, the general rule of s. 631.36 on cancellation should apply to such cases. Sub. (5) (b) provides for termination of the contract, not just the coverage, in order to prevent a situation that could occur under former s. 202.13, where a defaulting member could not get out of the contract without paying the outstanding assessments. Similar considerations of fairness have dictated the time limitation for the

penalty under sub. (5) (a). The only purpose of the penalty is to discourage short-term delays; it should not be allowed to accumulate to an amount out of all proportion to the defaulted assessment.

612.61 Licensing of agents. (1) **GENERAL EXEMPTION.** Except as otherwise provided in sub. (2), or by rule promulgated by the commissioner, persons engaged in soliciting insurance exclusively for town mutuals are exempt from the requirements of s. 209.04.

(2) **AGENTS SOLICITING INSURANCE REQUIRING REINSURANCE.** No person may solicit any application for a contract providing coverage of the kind specified in s. 612.33 (2) (b) unless he has first obtained a license to do so under s. 209.04. The license need be only for those coverages the town mutual is authorized to write and any examination of applicants shall be appropriately limited.

NOTE: This section follows the principle that town mutual agents do not need a license for the traditional town mutual coverages but do need one for the special lines for which reinsurance is required. It is thus somewhat less restrictive than s. 202.06 (7).

612.70 Waiver of notice and informal action. Sections 181.70 and 181.72 apply to town mutuals.

NOTE: These general corporation laws should apply to town mutuals.

612.71 Organization of reinsurance corporations. (1) **TOWN MUTUAL REINSURANCE CORPORATIONS.** (a) *Organization.* Fifteen or more town mutuals which together carry fire insurance with face amounts aggregating at least \$200 million may, without complying with the requirements of ch. 611, organize a mutual reinsurance corporation under this chapter. The provisions of this chapter relating to town mutuals shall apply to the reinsurance corporation except as otherwise provided or implied by the context.

(b) *Termination.* Failure of a corporation organized under this section or already in existence on the effective date of this chapter (1973) to continue compliance with the requirements of par. (a) is a ground for liquidation under s. 645.41.

(2) **MEMBERSHIP PERMITTED.** Any town mutual may apply for membership in any reinsurance corporation organized under this section.

(3) **AUTHORIZED BUSINESS.** A town mutual reinsurance corporation organized under sub. (1) or already in existence may not do any business except reinsurance for town mutuals and business incidental thereto. It may only reinsure business required to be reinsured under s. 612.33 (2) (b) if it satisfies the requirements of ch. 611 for a corporation doing such business.

NOTE: Sub. (1) preserves the substance of s. 202.15, except that the number of companies and the total amount of insurance required is substantially increased to reflect present day realities.

Sub. (2) makes it possible for additional town mutuals to cede reinsurance to companies formed under sub. (1).

Sub. (3) limits the business permitted a town mutual reinsurance company. If it wants to write the reinsurance required under s. 612.33 (2) (b) it has to have the financial qualifications of a ch. 611 corporation.

612.81 Register of deeds. No town mutual need file any corporate documents with any register of deeds for corporation law or regulatory purposes. All such

documents held by registers of deeds on the effective date of this section (1973) may be disposed of under s. 59.51 (14m).

NOTE: For disposition of the earlier records, see SECTION 1 creating s. 59.51 (14m).

SECTION 12. Wherever the reference "ch. 202" appears in sections 201.24 (2), 600.03 (24) (a) and 645.57 (1) (intro.) of the statutes, the reference "ch. 612" is substituted.

SECTION 13. Wherever the reference "s. 202.11" appears in section 600.03 (24) (a) of the statutes, the reference "s. 612.54 (4)" is substituted.
