

CHAPTER 202.

INSURANCE—TOWN MUTUALS.

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202.01 Town mutuals. (1) WHO MAY ORGANIZE. Any number of persons not less than one hundred residing in the same county, who collectively own one hundred thousand dollars' worth of insurable property therein which they desire to insure, may form a town mutual insurance company for mutual protection against loss by fire and lightning only.

(2) ARTICLES. (a) They shall sign articles of organization which shall provide as follows:

PREAMBLE. We, the undersigned residents of . . . county do hereby associate, for ourselves and for others who are now or may become associated with us, for the purpose of organizing a town mutual insurance company under the provisions of chapter 202 of the statutes and acts amendatory thereof and supplementary thereto, and for that purpose do adopt the following:

ARTICLES OF ORGANIZATION

Article I. The name of this company shall be . . . Insurance Company, and the principal office for the transaction of business shall be located at . . . , county of . . . , state of Wisconsin.

Article II. The business of the company shall be fire and lightning insurance and subject to the limitations of the statutes and of this company's by-laws it may do business in all of the towns, villages and cities within the county of . . . , but not elsewhere.

Article III. The company shall be managed by a board of directors consisting of not less than five nor more than eleven members divided into three classes. One class shall be elected by each annual meeting for a term of three years. The directors shall have all the rights, powers and duties which are not inconsistent with the law or with this company's articles or by-laws. Vacancies in the board may be filled by the directors for the interim to the next annual meeting when a director shall be chosen for the unexpired term.

Article IV. The officers of the company shall consist of a president, vice president, secretary and treasurer, and such others as may be provided for in the by-laws. These officers shall be chosen by the board of directors from among its members immediately after the annual meeting of the company and they shall hold office for one year or until their successors are duly elected and qualified.

Article V. The annual meeting of the company for the election of directors and such other business as may properly come before such meeting shall be held in . . . , Wisconsin, on the in of each year at . . . o'clock . . M., or at such other time and place within the company's territorial limits as may be determined by the board of directors provided they shall give ten days' notice thereof by mail to all members before the change shall become effective. Special meetings of the company may be called by the board of directors, (or by the president or secretary upon the petition in writing of twenty-five members) provided at least thirty days' notice thereof, reciting the proposed business to be taken up, shall be given by mail to each member. At all meetings of the company, ten members shall constitute a quorum and each member shall have one vote for each two hundred dollars of his insurance, but the company may, by resolution, adopted at any annual meeting by a two-thirds vote, provide that each member shall have one vote. Only women may vote by proxy and no person shall vote more than one proxy.

Article VI. These articles may be amended by a resolution adopted by two-thirds of the votes cast on the question at any annual meeting; or at a duly called and noticed special

meeting. Within ten days after the adoption of an amendment, two copies thereof, with the affidavit of the president and secretary showing compliance with the law, shall be forwarded to the commissioner. Dissolution of the company may be effected by a resolution adopted, certified and recorded in like manner.

(b) The articles of each existing corporation, organized or operating under this chapter before June 11, 1937, are hereby amended to conform to this subsection and each such corporation shall adopt these articles as an amendment to and in lieu of its previous articles at its first annual meeting following June 11, 1937.

(3) FILING, RECORDING ARTICLES; CERTIFICATE OF INCORPORATION. Two copies of the original articles, to which shall be attached the affidavits of two of the signers thereof, stating that they are personally acquainted with the signers and know them to be the owners of the property to the amount stated in said articles, which may be insured for said sum, and that the copy is a true and correct and complete copy of the original articles, shall be forwarded to the commissioner and if approved by him he shall file one copy in his office and attach to the other copy his certificate of such filing. Such certified copy shall within thirty days be recorded in the office of the register of deeds of the county in which the company was organized. Thereupon the company shall have legal existence. The register of deeds shall forthwith transmit to the commissioner his certificate stating the time and place when and where such copy was recorded, and shall be entitled to the ordinary and reasonable fee therefor to be paid by the person presenting the same for record. Upon the receipt of such certificate the commissioner shall acknowledge the legal existence of the company.

(4) AMENDMENT OF ARTICLES, DISSOLUTION. The articles of organization may be amended by a resolution adopted by two-thirds of the votes cast on the question at any annual meeting. They may also be amended at a special meeting in like manner provided at least thirty days' notice thereof, reciting the proposed amendment, shall be given by mail to the members. The secretary shall give such notice upon written request of twenty-five members. Within ten days after the adoption of an amendment two copies thereof with the affidavit of the president and secretary showing compliance with the law shall be forwarded to the commissioner and if approved by him he shall file one copy in his office and attach to the other copy his certificate of such filing. Such certified copy shall be recorded as provided for the articles of organization and a like certificate made by the register of deeds. Dissolution of a company may be effected by a resolution adopted and certified and recorded in like manner.

(5) NAME. The words "Town Insurance Company" shall form part of the name of every such corporation organized after April 25, 1901, and no corporation not organized under this section shall be entitled to use a name embodying said words, except corporations existing on that date.

(6) SHORT NAME. A short name for corporations organized under this section may be "Town Mutuals."

(7) DIVISION OF DISTRICT. The creation of new towns or municipalities in whole or in part out of the territory of a town mutual shall not impair any power, duty or liability of such corporation.

(8) FILING BY-LAWS AND FORMS. Every town mutual shall adopt by-laws which shall prescribe the manner in which the same may be amended and such by-laws shall not be inconsistent with or a waiver of any of the provisions or conditions of the standard town mutual policy. Two copies of such by-laws and of any amendments thereto, accompanied by the certificate of the president and secretary stating that the same have been duly adopted and that such copy is true and complete, shall be filed with the commissioner within thirty days after such adoption. If approved by the commissioner he shall file one copy and return the duplicate showing his approval, but if disapproved by the commissioner they shall be void. A copy of the policy, application, and of each other form used by any such company, shall be furnished to and filed by the commissioner and he shall approve or disapprove the same. [1935 c. 214 s. 5; 1937 c. 226; 1939 c. 270, 315, 339; 1939 c. 513 s. 42]

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

While town mutual insurance companies may no longer issue windstorm policies by virtue of operation of chapter 226, Laws 1937, they nevertheless continue to be liable on unexpired windstorm policies, and surplus in windstorm department of such companies should be preserved for purpose of paying claims arising under unexpired policies. 27 Atty. Gen. 63.

202.02 Added territory; amendment to articles. Each town mutual is authorized to amend its articles to include in its territory the whole of the county in which it was organized and the whole of 3 additional counties, but the entire territory shall not exceed the whole of 4 contiguous counties. Any town mutual whose territory on January 1, 1937, exceeded the whole or parts of 4 counties may continue to do business in the territory

specified in its articles on January 1, 1937 and may increase its territory to the whole of any 4 of the counties in which it now does business. [1937 c. 226; 1939 c. 340; 1943 c. 214; 1945 c. 288]

202.03 [Repealed by 1937 c. 226]

202.03 Merger or consolidation of town mutuals. Any 2 or more town mutual insurance companies operating in the same or adjoining territories may merge into a single corporation which may be one of said constituent corporations or may consolidate into a new town mutual corporation. To effect the merger or consolidation it shall be necessary:

(1) That the board of directors of each of the corporations pass a resolution to the effect that the merger or consolidation is advisable and why, and prescribing the terms and conditions of the proposed merger or consolidation and in case of consolidation, containing the proposed name of the new corporation, as consolidated, and the location of its proposed office;

(2) That 2 certified copies of the resolution provided in subsection (1) shall be filed with the commissioner of insurance by each of the companies so proposing to merge or consolidate and he shall within 10 days give his written approval or disapproval of the proposed merger or consolidation to each of said companies. In case the commissioner of insurance shall disapprove of such proposed merger or consolidation he shall state his reasons therefor;

(3) That when the proposed merger or consolidation shall be approved by the commissioner of insurance, a joint special meeting of the policyholders of each of the corporations shall be held on notice mailed to each of the policyholders of said corporations at least 30 days prior to the holding thereof, which notice shall embody a copy or the summary of the resolutions adopted by the boards of directors as provided in subsection (1);

(4) That a two-thirds majority of the policyholders of each of the corporations present at such meeting shall by resolution acting separately approve and ratify the action of their directors and vote to carry out the proposed merger or consolidation. Within 10 days after the adoption of such resolution, 2 copies thereof, with the affidavit of the president and secretary showing compliance with the law, shall be forwarded to the commissioner by each of the companies so merging or consolidating. The procedure for certifying and recording of amendment of articles required by section 202.01 (4) shall be followed by those corporations losing their identities as a result of such merger or consolidation;

(5) That after adoption of the resolution to consolidate such companies as provided in subsection (4), the same joint meeting shall immediately proceed to adopt the articles of organization for the new company in the form required by section 202.01, and shall elect its first board of directors to take office at the time the legal existence of the new company is effected;

(6) That 2 copies of the articles of organization as provided in subsection (5) with an affidavit signed by 2 of the proposed directors of the new company showing compliance with this section shall be forwarded to the commissioner. The provisions for certifying and recording of articles required by section 202.01 (3) shall apply and thereafter the corporate existence of the companies so consolidating shall cease;

(7) That all of the provisions of sections 202.01 (5) and (8) and section 202.02 shall be required by the new corporation;

(8) That after acknowledgment of the merger or of the legal existence of the new corporation by the commissioner, the merger or consolidation shall be effected and the remaining company in case of merger or new company in case of consolidation thereupon and thereafter shall possess all of the assets, of whatever nature, belonging to or due to each of the companies so merged or consolidated. The remaining company in case of merger or new company in case of consolidation shall thenceforth be responsible and liable for all of the contracts, liabilities and obligations of each of the merged or consolidated companies. [1947 c. 346]

202.04 Directors; powers and duties; officers; meeting place. (1) The directors shall annually choose from their number a president, a vice president, a secretary and treasurer. They shall keep a permanent record of their proceedings, together with the names and places of residences of all persons insured and the amount for which each is insured, which record shall be open for inspection of all members from nine o'clock in the forenoon to four o'clock in the afternoon of each Saturday except when that day shall fall on a legal holiday, and of such other days of the week as may be determined by the annual meeting.

(2) The board of directors may change the place of any annual meeting of the company to any place within the territorial limits, but for such change to become effective they shall give ten days' notice thereof by mail to each member.

(3) The directors shall annually appoint from their own number an adjusting committee of not less than three members for the adjustment of all losses that may occur during the year. Such committee may consist of the president or vice president, the secretary, and an unnamed director to be chosen by the president at the time of each loss. The adjusting committee may delegate the adjustment of any loss to one or more of its members. [1937 c. 226; 1939 c. 316]

202.05 [Repealed by 1945 c. 63]

202.06 **Territory; risks, loans.** (1) Town mutuals shall not insure real property outside of their territory unless on land owned by a member of the company immediately adjoining and contiguous to land within the territory of the company owned by the same member of such company. Such companies may cover by insurance and pay for losses on live stock, farm products, machinery and vehicles occurring while such property is temporarily located, for a period not exceeding 6 months, outside of the territory. The board or the company may limit the distance to which any such property may be temporarily removed outside the territory of the company.

(2) They shall not insure any property other than detached dwellings and outbuildings used in connection therewith and their contents; farm buildings and their contents; live stock in possession or running at large; farm products and farming tools; implements, machinery and vehicles, but if authorized by an annual meeting they may insure in an amount not exceeding \$10,000 on any single risk, country stores, schoolhouses, town and society halls, churches, country hotels, water mills, blacksmith shops, cheese factories, creameries, country taverns, country social halls, country garages, country oil stations, electrically or motor driven feed mills in the country, grain elevators located outside of cities, buildings, equipment, materials and supplies of rural electric co-operative associations, and the contents of any such buildings and buildings of agricultural societies; provided that in any insurance on specifically rated risks in incorporated villages or cities, the rate shall be filed with the insurance department and rating bureau and audited by a rating bureau.

(4) They may limit the recovery as to any or all items of personal property insured to a percentage of the value at the time of loss, but to be effective the limitation must be expressed in every policy.

(5) They may lend money on notes due in one year or less signed by 2 persons who shall each own real estate, worth the amount of the notes above exemptions, mortgages and other liens, located within their territory. [1935 c. 126; 1937 c. 226; 1939 c. 314, 318, 366; 1943 c. 111; 1947 c. 425]

Note: Under 202.06 (2), Stats. 1931, authorizing town mutual insurance companies to insure farm buildings and dwellings, but not authorizing them to insure taverns, a town mutual fire policy carried on a dwelling house on a farm did not cover a loss to the house, which at the time of loss had been adapted for and was being used as a tavern, notwithstanding the house was also used in part as a dwelling. *Batzel v. Farmers M. F. Ins. Co.*, 220 W 581, 265 NW 697.

covered real and personal property located on the insured's farm in territory within which the insurer, a town mutual, was authorized to insure such property, and there was no attempt to insure any of the insured's property located elsewhere, the fact that the insured lived outside of and owned property outside of such territory did not relieve the insurer from liability for a loss thereunder. *Granzow v. Oakland Mut. Fire Ins. Co.* 244 W 300, 12 NW (2d) 57.

Where the application for fire insurance

202.07 **Reinsurance.** The board of directors may at any time authorize the officers to cede reinsurance to any other responsible company and may assume as a reinsurer alone or in conjunction with other insurers a portion of any risk of any other company provided the risk is located in the state of Wisconsin and is of a kind which it may insure direct. [1947 c. 173]

202.08 **Terms of policies; approval of form; classification of risks.** (1) The board of directors shall issue policies, signed by the president and secretary, agreeing in the name of the corporation to pay to the insured all damage to the property described therein which may be occasioned by either fire or lightning, and providing for such conditions of insurance as may be determined by the articles and by-laws of such corporation. The standard town mutual policy shall be used by each such company and no company shall issue any policy until the blank form for the same shall have been approved by the commissioner.

(1a) When authorized by the members at any annual meeting or by the board of directors, such company may issue, as a rider to the standard town mutual policy, a supplemental contract for coverage against loss or damage caused by any of the following classifications of hazards which hazards, if insured against, shall be construed as being included in the terms fire and lightning wherever those terms appear in this chapter:

(a) FIRE. Fire, smoke, smudge, lightning.

(b) COLLISION. Collision with falling or moving bodies or vehicles.

(c) RIOT, CIVIL COMMOTION AND EXPLOSION. Whether fire ensues or not, except explosion of steam boilers and the breaking of fly wheels.

(1b) The heading of the indorsement form for supplemental coverage permitted under subsection (1a) shall read as follows: "SUPPLEMENTAL COVERAGE ENDORSEMENT (DOES NOT INCLUDE WINDSTORM)." The board of directors may levy an additional assessment for this coverage.

(2) The board or the company may classify property under different rates, corresponding as nearly as may be to the greater or less risk which may attach to such property, and may establish premium rates to be charged on various classifications. A rate once established shall not be changed within one year. A schedule of the rates and all changes thereof shall be filed with the commissioner of insurance. [1937 c. 226; 1939 c. 203, 319; 1941 c. 54; 1945 c. 403; 1947 c. 392]

Note: See note to 203.01, citing Bank of Cashton v. La Crosse C. S. T. M. Ins. Co., 216 W 513, 257 NW 451.

The operation of a still on the insured premises did not void the policy as to a mortgagee, as the mortgage clause of a rider attached to the policy expressly provided that acts of the owner or occupation of the premises for more hazardous purposes should not invalidate the insurance of the mortgagee. The contract of insurance between the insurer, a registered town mutual insurance company [ch. 211, Stats. 1935] and the mortgagee by the rider after the issuance of the policy was not an "insurance

policy," within the meaning of a by-law of the company requiring its policies to be signed by its president and secretary. Prudential Ins. Co. v. Paris M. F. Ins. Co., 213 W 63, 250 NW 851.

Insured who purchased homestead of his parents under oral contract and moved into larger house on homestead tract, while parents moved into smaller house on same tract, acquired no title to premises and could not recover on fire policy which was made void unless insured had unconditional ownership. Bartz v. Eagle Point M. F. Ins. Co., 218 W 551, 260 NW 469.

202.085 Standard town mutual policy. The commissioner of insurance shall prepare and file in his office printed forms, sizes 8½ by 14 inches and 9 by 15½ inches, in blank of a policy of insurance containing the context, provisions, agreements and conditions specified in this section, to be known as the "Standard Town Mutual Policy" and to be used only by companies organized or operating under this chapter. Any such company may at its option use either size. No town mutual insurance company, its officers or agents, shall make, issue, use or deliver for use any insurance policy other than such as shall conform in all particulars as to form, context, provisions, agreements and conditions with the printed forms of policy so filed in the office of the commissioner of insurance. No other or different provision, agreement, conditions or clause shall in any manner be made a part of said policy except as follows, to wit: (1) the name of the company, (2) its location or place of business, (3) the date of its organization, (4) the name of its officers, (5) the number and (6) date of the policy, (7) the standard articles of organization and by-laws, and (8) such printed riders, permits and descriptive forms as shall necessarily be attached to such policy; provided, however, that such by-laws, riders and permits shall in no case be inconsistent with or a waiver of any of the conditions of the standard policy herein provided for.

[Face of Policy]

STANDARD TOWN MUTUAL POLICY.

No.

(Name of Company)

Assured.... of....

Amount Insured.... \$....

Premium.... \$....

Fees.... \$....

Expires...., 19... .., Agent

IN CASE OF LOSS THE PRESIDENT OR SECRETARY MUST BE NOTIFIED IMMEDIATELY

NOTICE

The insured is notified that by virtue of this Policy he is a member of the... Insurance Company, of,County, Wisconsin, and that the annual meetings of said Company are held in,County, Wisconsin, on the (date) in (month) of each year at ..o'clock .. M.

In communicating with the Company, give the number of your policy.

STANDARD TOWN MUTUAL POLICY

No.

Mutual Company

[Space for insertion of name of company or companies issuing policy and other matter permitted to be stated at the head of the policy.]

Amount of Insurance \$.... Rate.... Initial Premium \$....

In consideration of the Stipulations herein named and of Dollars Initial Premium Does Insure of, Wisconsin, and legal representatives, to the extent of the

actual cash value (ascertained with proper deductions for depreciation) of the property at the time of loss or damage, but not exceeding the amount which it would cost to repair or replace the same with material of like kind and quality within a reasonable time after such loss or damage, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair and without compensation for loss resulting from interruption of business or manufacture, for the term of . . . years from the . . . day of . . . , 19. . . , at noon, to the . . . day of . . . , 19. . . , at noon, against all DIRECT LOSS AND DAMAGE BY FIRE AND LIGHTNING, WHETHER FIRE ENSUES OR NOT, and by removal from premises endangered by fire, except as herein provided, to an amount not exceeding . . . Dollars, to the following described property while located and contained as described herein, or pro rata for 5 days at each proper place to which any of the property shall necessarily be removed for preservation from fire, but not elsewhere, to wit:

[Space for description of property and optional space for attachment of riders, forms and endorsements.]

The Standard Provisions, Articles of Organization and By-Laws on the following pages, and any attached and signed Endorsements, Riders, Permits and Forms on this page and the following pages are hereby made a part of this policy.

IN WITNESS WHEREOF, this Company has executed and attested and presents this . . . day of . . . , 19. . . This policy shall not be valid until countersigned by the duly authorized officers of the Company.

Attest:, Secretary

., President

STANDARD PROVISIONS AND CONDITIONS

MISREPRESENTATION: This entire policy shall be void if the insured has with intent to deceive concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof; or if the matter misrepresented increased the risk or contributed to any loss; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

UNINSURABLE PROPERTY: This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money, notes or securities; nor, unless specifically named hereon in writing, bullion, manuscripts, mechanical drawings, dies or patterns.

HAZARDS NOT COVERED: This company shall not be liable for loss or damage caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power, or by order of any civil authority; or by theft; or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises.

OWNERSHIP, ETC.: This entire policy shall be void, unless otherwise provided by agreement in writing added hereto, (a) if the interest of the insured be other than unconditional and sole ownership; or (b) if the subject of insurance be a building on ground not owned by the insured in fee simple; or (c) if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sales of any property insured hereunder by reason of any mortgage or trust deed; or (d) if any change, other than by the death of an insured, take place in the interest, title or possession of the subject of insurance (except change of occupants without increase of hazard); or (e) if this policy be assigned before a loss.

Unless otherwise provided by agreement in writing added hereto this company shall not be liable for loss or damage occurring

INCREASE OF HAZARD: (a) while the hazard is increased by any means within the control or knowledge of the insured; or

REPAIRS, ETC.: (b) while mechanics are employed in building, altering or repairing the described premises beyond a period of thirty days; or

UNOCCUPANCY: (c) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of thirty days.

EXPLOSION: This policy shall not cover loss by explosion, unless fire ensue, and, in that event, for loss or damage by fire only.

FALL OF BUILDING: If a building, or any material part thereof, fall except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

WAIVER: No one shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement added hereto, nor shall any such provision or condition be held to be waived unless such waiver shall be in writing added hereto, nor shall any provision or condition of this policy or any forfeiture be held to be waived by any requirement, act or proceeding on the part of this company relating to appraisal or to any examination herein provided for; nor shall any

privilege or permission affecting the insurance hereunder exist or be claimed by the insured unless granted herein or by rider added hereto.

CANCELLATION OF POLICY: This policy shall be canceled at any time at the request of the insured, provided he shall pay his pro rata share of all claims then existing against the company before cancellation shall become effective. In such cases the company shall, upon demand, and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by the company by giving to the insured a five days' written notice of cancellation, which notice shall state that the excess of paid premium above the pro rata premium for the expired time (if not tendered) will be refunded on demand and upon payment by the insured of his share of all claims then existing against the company.

OTHER INSURANCE: If there be other insurance on property, whether real or personal, covered by this policy, without the written consent of the company thereto and if written notice thereof shall not have been given to the company at least thirty days before the loss, then such other insurance shall not prevent recovery on this policy, but this company shall not be liable for more than its proportionate share of the actual loss and damage.

NOON: The word "noon" herein means noon of standard time at the place of loss or damage.

MORTGAGE INTEREST: If loss or damage is made payable, in whole, or in part, to a mortgagee not named herein as the insured, this policy may be canceled as to such interest by giving to such mortgagee a ten days' written notice of cancellation. Upon failure of the insured to render proof of loss, such mortgagee shall, as if named as insured hereunder, but within sixty days after notice of such failure, render proof of loss, and shall be subject to the provisions hereof as to appraisal and times of payment and of bringing suit. On payment to such mortgagee of any sum for loss or damage hereunder, if this company shall claim that as to the mortgagor or owner, no liability existed, it shall, to the extent of such payment, be subrogated to the mortgagee's right of recovery and claim upon the collateral to the mortgage debt, but without impairing the mortgagee's right to sue; or it may pay the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

REQUIREMENTS IN CASE OF LOSS: The insured shall give immediate written notice within fifteen days to this company of any loss or damage, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, stating the quality and cost of each article and the amount claimed thereon; and, the insured shall, within sixty days after the fire, unless such time is extended in writing by this company, render to this company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the fire, the interest of the insured and of all others in the property, the cash value of each item thereof, and the amount of loss or damage thereto, all incumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of the fire; and shall furnish a copy of all the descriptions and schedules in all policies, and if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe to the same; and, as often as may be reasonably required, shall produce for examination all books of accounts, bills, invoices and other vouchers, or certified copies thereof, if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

APPRAISAL: In case the insured and this company shall fail to agree as to the amount of loss or damage, each shall, on the written demand of either, and within ten days after such demand, select a competent and disinterested appraiser. The appraisers shall first select a competent and disinterested umpire; and failing for ten days to agree upon such umpire then, on the request of the insured or this company, such umpire shall be selected by a judge of a court of record in the county in which the property insured is located. The appraisers shall then appraise the loss and damage, stating separately sound value and loss or damage to each item; and failing to agree, shall submit their differences only to the umpire. An award in writing, so itemized, of any two when filed with this company, shall determine the amount of sound value and loss or damage. Each appraiser shall be

paid by the party selecting him, and the expenses of appraisal and umpire shall be paid by the parties equally.

COMPANY'S OPTIONS—ABANDONMENT: It shall be optional with this company to take all, or any part, of the articles at the agreed or appraised value, and also to repair, rebuild or replace the property lost or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention to do so within thirty days after the receipt of the proof of loss herein required; but there can be no abandonment to this company of any property.

WHEN LOSS PAYABLE: The amount of loss or damage for which this company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this company and ascertainment of the loss or damage is made either by agreement between the insured and this company expressed in writing or by filing with the company of an award as herein provided.

SUIT: No suit or action on this policy, for the recovery of any claim, shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, nor unless commenced within twelve months next after the fire.

SUBROGATION: This company may require from the insured an assignment of all right of recovery against any party for loss or damage to the extent that payment therefor is made by this company.

LIGHTNING CLAUSE

This policy shall cover any direct loss or damage caused by Lightning (meaning thereby the commonly accepted use of the term Lightning and in no case to include loss or damage by cyclone, tornado, or windstorm), not exceeding the sum insured nor the interest of the insured in the property, and subject in all other respects to the terms and conditions of this policy.

PERMITS

Permission to make additions, alterations, and repairs.

Permission granted to store household and personal effects in outbuildings insured in this company, but the liability of this company for household and personal effects in outbuildings shall not exceed 10 per cent of the whole amount of insurance carried on such items in this policy.

KEROSENE—Permission given to use kerosene oil for cooking and lighting.

GASOLINE—Permission is hereby given for the using of gasoline stoves, gasoline for lighting and gasoline engines, the reservoirs to be filled by daylight only, and when such appliances are not in use. Warranted by the assured that no artificial light be permitted in the room when any reservoir is being filled, and that no gasoline except that contained in said reservoirs shall be kept within any building. All gasoline in excess thereof shall be stored underground or in a fireproof building, or if in a drum, then at least 50 feet from any building. And this company shall not be held liable for any loss which may occur by reason of any violation by the insured of the terms of this permit.

MACHINERY, LIVE STOCK AND FARM PRODUCTS—Any insurance under this policy on farm machinery, implements, tools, vehicles, live stock and farm products is extended to cover while on or temporarily off the premises.

ELECTRICAL PERMIT

Permission granted to use electricity for light, heat and power in the premises described in this policy.

CAUTION—See that the entire electrical equipment is installed and maintained in full compliance with the standard requirements of the Wisconsin State Electrical Code.

ELECTRICAL EXEMPTION CLAUSE

It is a special condition of this policy that this company shall not be liable for any loss or damage to dynamos, exciters, lamps, switches, motors, and other electrical appliances or devices, including radios, caused by electrical currents artificially generated, unless fire ensues, and then for loss or damage by fire only.

ARTICLES OF ORGANIZATION

BY-LAWS

And it is hereby mutually understood and agreed by and between this Company and the assured, that this policy is made and accepted with reference to the foregoing Articles of Organization and By-Laws, which are hereby declared to be a part of this contract.

ASSIGNMENT OF INTEREST BY INSURED

The interest of as owner of property covered by this Policy is hereby assigned to subject to the consent of the Insurance Company.

Dated, 19.. Signature of the Insured.

NOTE—To secure mortgages, if desired, the policy should be made payable on its face to such mortgagee, as follows: Loss, if any, payable to John Doe, mortgagee.

CONSENT BY COMPANY TO ASSIGNMENT OF INTEREST

The Insurance Company hereby consents that the interest of as owner of the property covered by this policy be assigned to

Dated at, Wis.,, 19...

. . . . INSURANCE COMPANY.
By, Secretary.

No. of Policy			
Amount Issued			
	Year	Mo.	Day
Date of Cancellation
Date of Policy
Time in Force
Premium Paid \$			
Premium Earned at Rate \$			
Premium Returned \$			
If pro rata, state reason why.			

Receipt For Return Premium
to be signed by assured
. . . . Agency, 19..
In consideration of
. . . . Dollars
Returned premium, receipt of which is hereby acknowledged, this Policy is hereby canceled and surrendered to the Company.
. . . ., Assured.
[1939 c. 394; 1947 c. 51, 425]

Note: A standard policy of a town mutual company insuring household goods against loss by fire "while located and contained as described herein * * * but not elsewhere," covered the property only while it was located in the place described therein. Summers v. Oakfield Town Mut. Fire Ins. Co. 245 W 40, 13 NW (2d) 518.

[202.086 Stats. 1945 repealed by 1947 c. 51]

202.09 Membership; liabilities of members. Every policyholder is a member of the company and he shall sign a written application for insurance bearing even date with his policy. Every contract of insurance made under this chapter shall be based wholly upon the written answers in the application over the signature of the applicant. There shall be signed by all persons applying for insurance an undertaking as follows, which shall form a part of the application:

UNDERTAKING

KNOW ALL MEN BY THESE PRESENTS: That I,, of the (town) (village) of, in the county of, state of Wisconsin, do, in consideration of insurance on my buildings and personal property to the amount of \$. . . ., insured in policy numbered hereon, to myself, my heirs and assigns by the Insurance Company, bearing even date herewith, hereby bind myself, my heirs and assigns, to pay to the company, within the period of time stated in the notice of assessment, my pro rata share of all legal assessments levied by the company, and also such sum pro rata as may be required to pay necessary expenses of the company, together with all legal costs and charges incurred in legal proceedings to collect any assessment levied upon me, according to the terms and conditions set forth in said policy. And my property, both personal and real, waiving all exemptions, shall be liable for said pro rata share.

Given under my hand this day of, 19...

Witness Agent Applicant

Every such application and undertaking shall be filed and kept by the secretary for a period of one year after the expiration of such policy. [1937 c. 226; 1939 c. 335; 1941 c. 55]

Note: The provision in 202.09, Stats., 1943, that every contract of insurance made by a town mutual insurance company under ch. 202, shall be based wholly on the written answers in the application, does not preclude reformation of a fire policy after loss so as to cover property omitted from the application and the policy by mutual mistake. [Otens v. Atlas Assur. Co. 226 W 596, distinguished.] Schafer v. Shelby Farmers Mut. Ins. Co. 246 W 592, 18 NW (2d) 365.

202.10 Loss; notice and adjustment; arbitration. (1) Every member who may sustain loss from either fire or lightning shall immediately notify the secretary or the president who shall forthwith convene the adjusting committee which shall promptly ascertain the amount of the loss and shall authorize the secretary to offer such ascertained amount to the member sustaining the loss.

(2) In case of the inability of the parties to agree upon the amount of loss or damage, such amount shall be determined by an appraisal committee in the manner provided in the standard town mutual policy. Before entering upon their duties each member of said appraisal committee shall be duly sworn to faithfully and impartially discharge the duties thereof. The secretary may administer oaths and take acknowledgments necessary to adjust claims against his company, but he shall receive no compensation for such services. [1937 c. 226; 1939 c. 336, 337]

202.11 Assessments; notices; nonpayment; borrowing money. (1) When the amount of any loss shall exceed the funds on hand the president shall convene the board of directors who shall levy an assessment which shall be at the same rate upon all property insured at the time of the loss. The board may assess up to any amount necessary to pay incurred losses and expenses and may include in such assessment an amount not exceeding two mills in anticipation of future losses. The board may also levy an assessment at any time for the purpose of carrying on the business of the company including payment of losses, expenses, reinsurance, borrowed money or the establishment of reserves.

(2) When any assessment shall have been completed the secretary shall immediately insert a notice in one or more newspapers printed in the county or counties where the corporation is doing business, stating the amount of the assessment, the time such assessment was levied, and the time when the same becomes due, which said notice shall be in the following form:

To the Policyholders of the Insurance Company.

TAKE NOTICE:

Pursuant to the provisions of section 202.11 of the statutes, the directors of the Insurance Company on, 193.., levied an assessment of \$.... on the policyholders of the company, being at the rate of mills per dollar of insurance, and the said assessment is due and payable on or before, 193...

...., Secretary.

Such notice, together with the proof of the publication thereof, shall be conclusive evidence of notice of such assessment to every member. The secretary shall also notify every member by mail, using the last address on record, of the rate per cent of such assessment, and the sum due from him, the time when due, and to whom payment is to be made, which time shall not be less than thirty nor more than sixty days from the date of such notice, which said notice shall be in the following form:

.... **MUTUAL FIRE INSURANCE COMPANY**

...., Wisconsin

...., 193...

YOU ARE HEREBY NOTIFIED that the Board of Directors of this Company at a meeting on, 193.., voted to levy an assessment of mills on the dollar on all risks in force on, 193.., to be paid on or before, 193... Your share of such assessment under policy number at the rate specified above is \$.... and must be paid on or before, 19.., to, Treasurer, at, Wisconsin.

...., Secretary.

If the insurance under any policy is payable to a mortgagee and the assessment thereon is not paid within the time specified in the notice to the member, the secretary shall, within thirty days after the expiration of such time, give like notice to the mortgagee. The mortgagee shall have twenty days from the date of such notice to pay the assessment, and the policy, as to his interests, shall be in full force until the expiration at that time.

(3) The person designated to receive such assessments may demand and receive two per cent upon and in addition to the amount of each assessment for his fees.

(4) The corporation may borrow money to pay losses incurred on or after the first day of November preceding, but an assessment to cover such loan shall be levied before the first day of November following, upon all persons insured at the time such losses were incurred. No loan or renewal thereof shall extend beyond the first day of January following the date limit for levying the assessment for the repayment of such loan.

(5) Every member who shall fail to pay his assessment within the time specified in the notice sent to him, shall pay to such corporation a fine of two per cent of the amount of such assessment for each week or part thereof during which the same shall remain delinquent, and no payment shall be made by the company upon the policy of any member if at the time he shall suffer a loss he shall be in default and shall have failed to pay his assessment prior to the expiration of thirty days from the time limited in said notice. [1931 c. 234; 1933 c. 392; 1935 c. 74; 1937 c. 84, 226; 1939 c. 338]

Note: Notice of assessment against policyholders in mutual fire insurance company held sufficient in form, though not addressed to particular person and not

signed, and bearing only printed signature of secretary (Stats. 1931). *Bartz v. Eagle Point M. F. Ins. Co.*, 218 W 551, 260 NW 469.

Where an insured under a fire policy in a town mutual insurance company was in default on an assessment on the date of levy of another assessment to pay expenses incurred subsequent to his default, but thereafter and prior to the occurrence of a loss he paid the original assessment on which he had defaulted, his failure to pay the additional assessment did not preclude recovery by him on the policy, since, under (1), (2), (4) and (5), an additional assessment against him was unauthorized while he was in default. *Wright v. Wrightstown-Morrison F. M. Ins. Co.*, 222 W 462, 269 NW 317.

328.22 does not limit the presumptive effect of certificates authorized thereby to but such as appear to be in relation to an assessment levied for losses, business expenses, or debts incurred in the year in

which the assessment is levied. *Lisbon Town Fire Ins. Co. v. Tracy*, 236 W 651, 296 NW 126.

Where there had been no effort by the insurer before the fire to treat the policy as void for the insured's delinquency in the payment of certain assessments, and the assessments had been paid before the fire, there was a waiver of this condition by the insurer. *Granzow v. Oakland Mut. Fire Ins. Co.*, 244 W 300, 12 NW (2d) 57.

Where mortgage clause is attached to policy of town mutual insurance company mortgagee is not liable for payment of assessment under (2) (Stats. 1931). 21 Atty. Gen. 67.

Town mutual insurance company which is member of reinsurance company may levy assessments upon its policyholders to pay assessments made upon it by reinsurance company. Town mutual has no power to borrow for such purpose. 22 Atty. Gen. 742.

202.12 Assessments, actions to collect; directors' liability. The assessments of town mutuals shall constitute personal liabilities of the members and payment thereof may be enforced by appropriate action. The directors who shall wilfully neglect or refuse for thirty days to perform the duties imposed upon them by this section or by section 202.11 shall be jointly and severally liable to the person sustaining loss by such nonfeasance.

202.13 Withdrawal; cancellation of policies. Any member may withdraw at any time by returning his policy with the request for its cancellation written thereon or by a notice in writing over his signature to the president or to the secretary and paying his share of all claims then existing against the corporation. And the directors or such of them as may have been appointed as a committee for such purpose, shall have power to annul any policy by giving not less than five days' notice in writing to that effect to the holder. [1931 c. 387]

202.14 Reports of secretary and treasurer; report to commissioner. The secretary of every town mutual shall annually prepare a statement showing its condition on the thirty-first day of December preceding its annual meeting, which shall specify the whole number of policies issued, the whole number then in force, the aggregate amount then insured, the amount of losses paid during the year, the amount of losses sustained and unpaid, if any, and all other matters required by the by-laws. The treasurer shall before each annual meeting prepare a detailed financial statement of its affairs for the year ending the thirty-first day of December preceding, showing amount on hand January first, amount received during the year from premiums, amount received from each separate assessment, amount received from other sources, amount paid for losses, amount paid for expenses, giving a detailed statement of every item of expenses, and amount of cash on hand. Such statements shall be read at the annual meeting and together with the action thereon shall be entered at length upon the records. The company shall before February in each year make and file such report for the preceding year with the commissioner, and for failure to so file shall forfeit and pay to the state the sum of twenty-five dollars. [1931 c. 387]

202.15 Reinsurance mutuals; organization. Any number of town mutual fire insurance companies not less than nine which collectively carry fire insurance risks aggregating ten million dollars, may form themselves into a corporation for mutual reinsurance against loss by fire or lightning.

Note: Evidence held to show that mutual fire insurance company became member of reinsurance corporation and liable to assessment, notwithstanding one of three members of committee of officers appointed to represent insurance company in organization of reinsurance corporation took no part in proceedings by committee. *Wisconsin Town M. R. Co. v. Calumet County M. F. Ins. Co.*, 224 W 109, 271 NW 51.

202.16 Same; members; representatives. Any town mutual fire insurance company may, at its annual meeting, or at a special meeting called for that purpose, vote to become a member of a reinsurance corporation to be organized under this chapter. The secretary, or in case of his inability, the president, of such town company shall thereupon be authorized to represent it in organizing a reinsurance corporation; and shall in all matters represent his company in said reinsurance corporation.

202.17 Same; directors; risks. The affairs of every reinsurance corporation shall be managed by a board of nine directors who shall be chosen by the representatives of the constituent town companies from among their number. Such reinsurance corporation shall have power to reinsure the risks of any of the constituent town mutual fire insurance companies; and such town mutual fire insurance companies are authorized to effect such reinsurance of their risks. The provisions of this chapter shall, so far as applicable,

apply to the organization, management, powers, rights, privileges, duties and burdens of such reinsurance corporation and the members thereof, and the relations of such members with each other and with such reinsurance corporation, and the manner of withdrawal of members therefrom.

202.18 Same; town mutuals may join. Any town mutual fire insurance company or the board of directors of any town mutual fire insurance company may at any legal meeting vote to apply for insurance in such reinsurance corporation; and when such application for insurance shall be accepted as provided by the by-laws of said reinsurance corporation, such town mutual fire insurance company shall thereupon become a member. [1947 c. 173]

202.19 [Renumbered section 202.16 by 1929 c. 418 s. 20]

202.19 Insurance bookkeeping; commissioner may prescribe. Whenever it shall appear to the commissioner of insurance that any town insurance company or association domiciled and operating in this state, does not keep books and records in such manner as to enable him to readily ascertain the true condition of such insurance company, he shall have the power to require the officers of such company or any of them to open and keep such books or records as he may in his discretion determine and prescribe for the purpose of keeping accurate and convenient records of the transactions and accounts of such company. [1937 c. 226]

202.20 [Renumbered section 202.17 by 1929 c. 418 s. 21]

202.20 Law governing companies organized under repealed chapter 211. Any insurance company which was organized or operated under chapter 211, repealed by chapter 226, laws 1937, shall, upon June 11, 1937, be operated under and governed by the provisions of this chapter. [1937 c. 226; 1939 c. 513 s. 42]

202.21 [Renumbered section 202.18 by 1929 c. 418 s. 22]

202.22 Town mutuals, duration, validating provision, filing articles. [Not printed, 1929 c. 418 s. 23; see 1927 Stats.]