

CHAPTER 202.

INSURANCE—TOWN MUTUALS.

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202.01 Town mutuals. (1) WHO MAY ORGANIZE. Any number of persons, not less than 100, residing in the same county, who collectively own \$100,000 worth of insurable property therein which they desire to insure, may form a town mutual insurance company for the purpose of providing fire insurance protecting against loss or damage to property, by fire, lightning, hail, tempest, explosion, and against any other loss or damage from any cause to property or in the use of, or income from property and in addition, but subject to ss. 202.06 (6) and 202.08 (1) (c), the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18).

(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 insurance and subject to the limitations of the statutes and of this company's bylaws 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 5 nor more than 11] members divided into 3 classes. One class shall be elected by each annual meeting for a term of 3 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. No member shall vote by 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 any existing corporation, organized or operating under this chapter before June 26, 1959, are hereby amended to conform to this subsection.

(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 BYLAWS AND FORMS. Every town mutual shall adopt bylaws which shall prescribe the manner in which the same may be amended and such bylaws 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 bylaws 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 30 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 of endorsement or rider used by any such company, shall be furnished to and filed by the commissioner and he shall approve or disapprove the same.

History: 1961 c. 471; 1967 c. 254.

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. In case of merger or

consolidation of 2 or more town mutual insurance companies as provided in s. 202.03, the remaining or the new town mutual corporation is authorized to amend its articles or to adopt articles of organization to include in its territory the whole of the territories in which such corporations were authorized to do business immediately prior to such merger or consolidation, but the entire territory shall not exceed the whole of 8 contiguous counties.

History: 1961 c. 233.

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 the new corporation comply with ss. 202.01 (5) and (8) and 202.02;

(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.

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 at such reasonable times 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 3 members for the adjustment of all losses, other than losses arising under insurance written pursuant to ss. 202.06 (6), and 202.08 (1) (c), 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 such loss to one or more of its members.

History: 1967 c. 254.

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 may insure any property located within the territory specified in their articles of organization, subject to the provisions specified in s. 201.16 (1) as to maximum single risks; provided that in any insurance on risks located in incorporated villages or cities the class rate or rating plan shall be filed with and approved by the commissioner who may order that policies or other evidences of insurance, or the cancellation thereof, on such risks shall be audited in accordance with such filings in a manner acceptable to the commissioner.

(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.

(4m) They may insure not to exceed 10 per cent in value of the household goods and effects covered by a policy wherever situated when temporarily removed from the location stated in the 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.

(6) They may transact by direct insurance any or all of the kinds of insurance authorized by s. 201.04 (5), (10), (11) and (18), if such transactions are written in one policy and as a part of or supplemental to the standard town mutual policy and the obligations assumed or liabilities incurred in such transactions for multiple peril insurance are assumed or fully reinsured by another licensed insurer meeting the surplus requirements of s. 201.05 (2m) and the fact of such assumption of liability is stated in the policy or attached endorsement; provided that as a condition precedent to engaging in the writing of said kinds of insurance, the town mutual shall have a minimum surplus as regards policy holders of \$50,000.

(7) The exclusion for town mutuals in s. 209.04 (10) (a) does not apply to town mutuals writing the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18), except that no examination or fee for an agent's license for fire insurance is required of any person who makes application therefor who has engaged in the business of soliciting insurance exclusively for town mutuals for a period of 3 years immediately preceding the date of filing his application. The commissioner of insurance may require such applicant to submit satisfactory proof that he has so engaged for such period.

History: 1967 c. 254.

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.

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 loss or damage which may be occasioned by fire or lightning, or by such additional perils the indemnification for which the corporation by affirmative action by the board of directors (and by the members as provided in par. (a) as a prerequisite to insuring against windstorm and hail) may assume.

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. Each such company may use, issue and attach to the standard town mutual policy endorsements or riders for coverage against loss or damage caused by perils other than fire or lightning.

(a) When authorized by the board of directors and the requisite number of members as hereinafter required such company may issue, as a rider to the standard town mutual policy, an endorsement for coverage against loss or damage caused by windstorm and hail, but such windstorm and hail coverage shall be on property other than growing crops; provided, that as a condition precedent to engaging in the writing of windstorm and hail insurance the company shall:

1. Have filed proof with the commissioner of insurance showing to his satisfaction that two thirds of all members voting have voted in favor of authorizing the company to insure against the peril of windstorm and hail damage at a regular or special meeting of members, the written notice of which meeting to each member shall have specified such authorization as one of the purposes of said meeting, and that a mail ballot was mailed to each member not less than 30 days prior to such meeting setting forth the exact question to be voted upon. A written vote received by mail from any absent member, and signed by him, shall be equivalent to a vote of the member so signing;

2. Have procured a contract reinsuring either a. at least 90 per cent of the liability assumed on any risk under this paragraph, or b., all liability for incurred ultimate net losses in the aggregate during any calendar year in excess of 3 mills on the average net insurance in force during the calendar year under this paragraph which such reinsurance contract shall be filed with and approved by the commissioner of insurance. Such reinsuring company shall either have and maintain a surplus of not less than \$100,000, or such reinsuring company shall have reinsurance contracts covering windstorm and hail risks on property other than growing crops with not less than 25 town mutual insurance companies operating in not less than 36 counties of this state.

(b) The board of directors may levy an additional assessment for coverages provided for under sub. (1).

(c) When authorized under par. (a) and subject to the requirements of s. 202.06 (6), the company may also issue, as a rider to the standard town mutual policy, an endorsement for the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18). The statement of assumption of obligations assumed or liabilities incurred required to be shown on the policy or endorsement, or the contract of reinsurance, shall be filed with and approved by the commissioner. The reinsurance contract shall state that the reinsurer shall adjust all losses arising under insurance written pursuant to this paragraph; that payment of any such loss may be made by the reinsurer directly to the person making such claim; that any claimant in any case in which he could maintain an action against the town mutual reinsured under the policy provisions required by s. 204.30 (1) may maintain an action jointly against the town mutual reinsured and reinsurer and claimant may have recovery against reinsurer for payment to the extent in which it may be liable under such reinsurance; and that there shall be no diminution in the amount recoverable from the reinsurer as a result of any delinquency proceedings pertaining to the reinsured town mutual, any provision in the reinsurance contract to the contrary notwithstanding.

1. Every member of a town mutual to whom notice is given of any loss or damage to property of 3rd parties or of loss or damage resulting from accident or injury to or death of any person and for which such member may be liable, or against whom a claim is made or action is brought under insurance provided pursuant to this subsection shall immediately forward to the reinsurer or the insurer assuming the obligations or liabilities incurred, every such notice, demand, claim, summons or other process relating to said insurance.

2. Every town mutual writing insurance specified in s. 201.04 (5), (10), (11) and (18) shall charge an advance premium at rates set in accordance with sound actuarial principles for said kinds of insurance and shall file with the commissioner, every manual, schedule, minimum, class rate, rating schedule or rating plan and every underwriting rule, and every modification of any of the foregoing which it proposes to use for such kinds of insurance, including short rate tables. Every filing shall state the proposed effective date and indicate the character and extent of the coverage contemplated. Such short rate tables shall specify the percentages of the premium to be charged or retained by the town mutual for said kinds of insurance, and shall cover all policies of such insurance the term of which is less than the term prescribed for such insurance by the rate and rating schedules as filed by such town mutual. When a filing is not accompanied by the information upon which the town mutual supports

such filing, and the commissioner does not have sufficient information to determine whether such filing meets his approval, he shall require such town mutual to furnish the information upon which it supports such filing.

3. The commissioner shall review filings under subd. 2 as soon as reasonably possible. Each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 15 days if written notice is given within the waiting period to the town mutual making the filing that he needs such additional time for consideration. A filing shall meet the approval of the commissioner unless within the waiting period, or any extension, he sends to the company making the filing written notice of disapproval specifying the grounds for his disapproval and stating that such filing will not become effective. At any time subsequent to an effective filing, the commissioner may disapprove such filing, but only after a hearing held upon not less than 10 days' written notice to the town mutual, specifying the matters to be considered at such hearing, and only by an order specifying in what respect he finds such filing fails to meet his approval, and stating when, within a reasonable period thereafter, such filing will no longer be effective. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order. Any town mutual aggrieved by any order or decision of the commissioner made without a hearing on a filing may, within 30 days after notice of the order or decision to the company, make written request to the commissioner for a hearing. The commissioner shall hear such party within 20 days after receipt of such request and shall give not less than 10 days' written notice of the time and place of the hearing. Within 10 days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reason therefor. Pending such hearing and decision, the commissioner may suspend or postpone the effective date of his previous action. Any approval, disapproval, order or decision of the commissioner under this section made after a hearing may be reviewed under ch. 227.

(2) The board or the company may classify property or risks under different rates, corresponding as nearly as may be to the greater or less expense and estimated probability of loss which may attach and may establish premium rates and fees to be charged on various classifications. A schedule of the rates and all changes thereof shall be filed with the commissioner. It may also, at its option, levy assessments for classes of risks based upon expense and estimated probability of loss. A report of each such assessment shall be filed with the commissioner. Whenever an assessment is levied according to classes of risks as provided in this section, the provisions of s. 202.11 as to levying the assessment at a uniform rate upon all property insured and as to the form of the notice required shall be construed to permit such classification and notice of assessment in accordance therewith.

History: 1967 c. 254, 259, 271.

202.085 Standard town mutual policy. (1) The commissioner of insurance shall keep on file printed forms, in blank, of the standard town mutual policy of fire insurance, containing the provisions, agreements and conditions specified in this section. The following policy form is declared to be and shall be known as the "Standard Town Mutual Policy":

[First page of Policy]

STANDARD TOWN MUTUAL POLICY

Mutual Company

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

[Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard town mutual form of policy and for additional coverages or perils insured under endorsements attached.]

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO

and of Dollars Premium
this Company, for the term of
from the day of, 19.... } at noon, Standard Time, at
to the day of, 19.... } location of property involved,
to an amount not exceeding Dollars,
does insure

and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, 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, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for 5 days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

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

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

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

Attest:, *Secretary*., *President*.

[Second page of policy]

- 1 **Concealment,** This entire policy shall be void if, whether
- 2 **fraud.** before or after a loss, the insured has wil-
- 3 fully concealed or misrepresented any ma-
- 4 terial fact or circumstance concerning this insurance or the
- 5 subject thereof, or the interest of the insured therein, or in case
- 6 of any fraud or false swearing by the insured relating thereto.
- 7 **Uninsurable** This policy shall not cover accounts, bills,
- 8 **and** currency, deeds, evidences of debt, money or
- 9 **excepted property.** securities; nor, unless specifically named
- 10 hereon in writing, bullion or manuscripts.
- 11 **Perils not** This Company shall not be liable for loss by
- 12 **included.** fire or other perils insured against in this
- 13 policy caused, directly or indirectly, by: (a)
- 14 enemy attack by armed forces, including action taken by mili-
- 15 tary, naval or air forces in resisting an actual or an immediately
- 16 impending enemy attack; (b) invasion; (c) insurrection; (d)
- 17 rebellion; (e) revolution; (f) civil war; (g) usurped power; (h)
- 18 order of any civil authority except acts of destruction at the time
- 19 of and for the purpose of preventing the spread of fire, provided
- 20 that such fire did not originate from any of the perils excluded
- 21 by this policy; (i) neglect of the insured to use all reasonable
- 22 means to save and preserve the property at and after a loss, or
- 23 when the property is endangered by fire in neighboring prem-
- 24 ises; (j) nor shall this Company be liable for loss by theft.
- 25 **Other insurance.** Other insurance may be prohibited or the
- 26 amount of insurance may be limited by en-
- 27 dorsement attached hereto.
- 28 **Conditions suspending or restricting insurance.** Unless other-
- 29 wise provided in writing added hereto this Company shall not
- 30 be liable for loss occurring
- 31 (a) while the hazard is increased by any means within the con-
- 32 trol or knowledge of the insured; or
- 33 (b) while a described building, whether intended for occupancy
- 34 by owner or tenant, is vacant or unoccupied beyond a period of
- 35 sixty consecutive days; or
- 36 (c) as a result of explosion or riot, unless fire ensue, and in
- 37 that event for loss by fire only.
- 38 **Other perils** Any other peril to be insured against or sub-

39 or subjects. ject of insurance to be covered in this policy
 40 shall be by endorsement in writing hereon
 41 or added hereto.
 42 **Added provisions.** The extent of the application of insurance
 43 under this policy and of the contribution to
 44 be made by this Company in case of loss, and any other pro-
 45 vision or agreement not inconsistent with the provisions of this
 46 policy, may be provided for in writing added hereto, but no pro-
 47 vision may be waived except such as by the terms of this policy
 48 is subject to change.
 49 **Waiver** No permission affecting this insurance shall
 50 **provisions.** exist, or waiver of any provision be valid,
 51 unless granted herein or expressed in writing
 52 added hereto. No provision, stipulation or forfeiture shall be
 53 held to be waived by any requirement or proceeding on the part
 54 of this Company, relating to appraisal or to any examination
 55 provided for herein.
 56 **Cancellation** This policy shall be cancelled at any time
 57 **of policy.** at the request of the insured, in which case
 58 this Company shall, upon demand and sur-
 59 render of this policy, refund the excess of paid premium above
 60 the customary short rates for the expired time. This pol-
 61 icy may be cancelled at any time by this Company by giving
 62 to the insured a five days' written notice of cancellation with
 63 or without tender of the excess of paid premium above the pro
 64 rata premium for the expired time, which excess, if not ten-
 65 dered, shall be refunded on demand. Notice of cancellation shall
 66 state that said excess premium (if not tendered) will be re-
 67 funded on demand.
 68 **Mortgagee** If loss hereunder is made payable, in whole
 69 **interests and** or in part, to a designated mortgagee not
 70 **obligations.** named herein as the insured, such interest
 71 in this policy may be cancelled by giving to
 72 such mortgagee a ten days' written notice
 73 of cancellation.
 74 If the insured fails to render proof of loss such mortgagee, upon
 75 notice, shall render proof of loss in the form herein specified
 76 within sixty (60) days thereafter and shall be subject to the pro-
 77 visions hereof relating to appraisal and time of payment and of
 78 bringing suit. If this Company shall claim that no liability ex-
 79 isted as to the mortgagor or owner, it shall, to the extent of pay-
 80 ment of loss to the mortgagee, be subrogated to all the mort-
 81 gagee's rights of recovery, but without impairing mortgagee's
 82 right to sue; or it may pay off the mortgage debt and require
 83 an assignment thereof and of the mortgage. Other provisions
 84 relating to the interests and obligations of such mortgagee may
 85 be added hereto by agreement in writing.
 86 **Pro rata liability.** This Company shall not be liable for a greater
 87 proportion of any loss than the amount
 88 hereby insured shall bear to the whole insurance covering the
 89 property against the peril involved, whether collectible or not.
 90 **Requirements in** The insured shall give immediate written
 91 **case loss occurs.** notice to this Company of any loss, protect
 92 the property from further damage, forthwith
 93 separate the damaged and undamaged personal property, put
 94 it in the best possible order, furnish a complete inventory of
 95 the destroyed, damaged and undamaged property, showing in
 96 detail quantities, costs, actual cash value and amount of loss
 97 claimed; and within sixty days after the loss, unless such time
 98 is extended in writing by this Company, the insured shall render
 99 to this Company a proof of loss, signed and sworn to by the
 100 insured, stating the knowledge and belief of the insured as to
 101 the following: the time and origin of the loss, the interest of the
 102 insured and of all others in the property, the actual cash value of
 103 each item thereof and the amount of loss thereto, all encum-
 104 brances thereon, all other contracts of insurance, whether valid

105 or not, covering any of said property, any changes in the title,
 106 use, occupation, location, possession or exposures of said prop-
 107 erty since the issuing of this policy, by whom and for what
 108 purpose any building herein described and the several parts
 109 thereof were occupied at the time of loss and whether or not it
 110 then stood on leased ground, and shall furnish a copy of all the
 111 descriptions and schedules in all policies and, if required, verified
 112 plans and specifications of any building, fixtures or machinery
 113 destroyed or damaged. The insured, as often as may be reason-
 114 ably required, shall exhibit to any person designated by this
 115 Company all that remains of any property herein described, and
 116 submit to examinations under oath by any person named by this
 117 Company, and subscribe the same; and, as often as may be
 118 reasonably required, shall produce for examination all books of
 119 account, bills, invoices and other vouchers, or certified copies
 120 thereof if originals be lost, at such reasonable time and place as
 121 may be designated by this Company or its representative, and
 122 shall permit extracts and copies thereof to be made.

123 **Appraisal.** In case the insured and this Company shall
 124 fail to agree as to the actual cash value or
 125 the amount of loss, then, on the written demand of either, each
 126 shall select a competent and disinterested appraiser and notify
 127 the other of the appraiser selected within twenty days of such
 128 demand. The appraisers shall first select a competent and dis-
 129 interested umpire; and failing for fifteen days to agree upon
 130 such umpire, then, on request of the insured or this Company,
 131 such umpire shall be selected by a judge of a court of record in
 132 the state in which the property covered is located. The ap-
 133 praisers shall then appraise the loss, stating separately actual
 134 cash value and loss to each item; and, failing to agree, shall
 135 submit their differences, only, to the umpire. An award in writ-
 136 ing, so itemized, of any two when filed with this Company shall
 137 determine the amount of actual cash value and loss. Each
 138 appraiser shall be paid by the party selecting him and the ex-
 139 penses of appraisal and umpire shall be paid by the parties
 140 equally.

141 **Company's** It shall be optional with this Company to
 142 **options.** take all, or any part, of the property at the
 143 agreed or appraised value, and also to re-
 144 pair, rebuild or replace the property destroyed or damaged with
 145 other of like kind and quality within a reasonable time, on giv-
 146 ing notice of its intention so to do within thirty days after the
 147 receipt of the proof of loss herein required.

148 **Abandonment.** There can be no abandonment to this Com-
 149 pany of any property.

150 **When loss** The amount of loss for which this Company
 151 **payable.** may be liable shall be payable sixty days
 152 after proof of loss, as herein provided, is
 153 received by this Company and ascertainment of the loss is made
 154 either by agreement between the insured and this Company ex-
 155 pressed in writing or by the filing with this Company of an
 156 award as herein provided.

157 **Suit.** No suit or action on this policy for the recov-
 158 ery of any claim shall be sustainable in any
 159 court of law or equity unless all the requirements of this policy
 160 shall have been complied with, and unless commenced within
 161 twelve months next after inception of the loss.

162 **Subrogation.** This Company may require from the insured
 163 an assignment of all right of recovery
 164 against any party for loss to the extent that payment therefor
 165 is made by this Company.

CLAUSES

Work and materials clause: Permission granted for such use of the premises as is usual or incidental in the business, as conducted therein, and to keep and use all articles and materials usual or incidental to such business, in such quantities as the exigencies of the business require.

Alterations and repairs clause: Permission granted to make additions, alterations, improvements and repairs to any building described in this policy.

Electrical apparatus clause: If electrical appliances or devices (including wiring) are covered under this policy, this company shall not be liable for any electrical injury or disturbance to the said electrical appliances or devices (including wiring) caused by electrical currents artificially generated unless fire ensues, and if fire does ensue this company shall be liable only for its proportion of loss caused by such ensuing fire.

Machinery, live stock and farm products off premises clause: 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.

[Third page of policy]

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.

[Fourth page of policy]

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

STANDARD TOWN MUTUAL POLICY

Table with 2 columns: Description and Amount. Rows include: Assured of, Amount Insured, Premium, Fees, Expires, and 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.

(2) No town mutual insurance company, its officers or agents, shall issue, use or deliver for use any insurance policy on property in this state, unless it shall conform as to all provisions, agreements and conditions of the standard town mutual policy as set forth

in sub. (1). The name of the company shall, and its location or place of business and the date of its organization may at the option of the company be printed on the policies. There may be inserted in the space indicated therefor or added to the policy by agreement in writing thereon or by endorsement thereto descriptions and specifications by schedule or otherwise of the property covered. Appropriate forms of endorsements, whereby the interest in the property described in such policy shall be insured against one or more of the perils which the insurer issuing the policy is empowered to assume may be used in connection with the standard town mutual policy. Such form of endorsements attached or printed thereon may contain provisions and stipulations inconsistent with the standard town mutual policy, provided that the fire and lightning portions thereof shall be in accord substantially with such standard town mutual policy. Subject to the approval of the commissioner, the first page of the standard town mutual policy may be rearranged as to all provisions thereof and to provide space for listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon. Subject to the approval of the commissioner, the insuring clause in the standard town mutual policy may be modified to include perils in addition to fire and lightning when such perils are included under the policy conditions.

(3) Riders and endorsements may be added to the standard town mutual policy insuring property, whereby the insurer agrees to reimburse and indemnify the insured for the difference between the actual value of the insured property at the time any loss or damage occurs and the amount that would be required to repair, rebuild or replace with new materials of like size, kind and quality, but not to exceed the amount of insurance covering such property as has been damaged or destroyed by fire or other perils insured against. The attachment of such riders and endorsements to the standard town mutual policy insuring property with respect to dwelling risks shall in no event result in the payment of a lesser amount than would otherwise have been paid had such riders and endorsements not been attached.

(4) Insurers issuing the standard town mutual policy pursuant to this section are authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy; provided, however, that nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination.

(5) Insurers issuing the standard town mutual policy under this section are authorized to affix thereto and include therein written statements, riders, endorsements and provisions to write the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18) in accordance with ss. 202.06 (6) and 202.08 (1) (c).

History: 1963 c. 70; 1967 c. 254.

See note to 203.01, citing *Stebane Nash* (2d) 112, 133 NW (2d) 737.
Co. v. *Campbellsport Mut. Ins. Co.* 27 W See note to 203.01, citing 54 Atty. Gen. 75.

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.

202.095 Interest of the insured. The term "interest of the insured" as used in the standard town mutual policy shall be deemed to include the interest of the named insured and of his or her spouse, when the insured property is owned by them in joint tenancy or is so transferred.

History: 1961 c. 69.

202.10 Loss; notice and adjustment; arbitration. (1) Every member who may sustain loss from a peril against which he is insured other than losses arising under insurance written pursuant to ss. 202.06 (6) and 202.08 (1) (c) shall immediately notify the secretary or the president who shall immediately 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.

History: 1967 c. 254.

202.11 Assessments; notices; nonpayment; borrowing money. (1) When the amount of any loss exceeds 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, except that the assessment need not be at the same rate upon all property when the assessment is levied according to classes of risks under s. 202.08 (2). 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 2 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) (a) When any assessment has been completed the secretary shall immediately 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 30 nor more than 60 days from the date of such notice, which said notice shall be substantially in the following form:

.... INSURANCE COMPANY
...., Wisconsin

...., 19...

YOU ARE HEREBY NOTIFIED that the Board of Directors of this Company at a meeting on, 19.., voted to levy an assessment of mills on the dollar on all risks in force on, 19.., to be paid on or before, 19... 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.

(b) 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 30 days after the expiration of such time, give like notice to the mortgagee. The mortgagee shall have 20 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 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.

(4) 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 2 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 30 days from the time limited in said notice.

History: 1965 c. 252; 1967 c. 259, 271.

Where a town mutual reinsured a portion of some of the risks of another town mutual, and the reinsurer, because losses exceeded funds on hand, assessed all insurance in force, the reinsured company was liable as a member of the reinsurer and

hence subject to assessment. *Pella F. Mut. Ins. Co. v. Hartland R. T. Ins. Co.* 26 W (2d) 29, 132 NW (2d) 225.

See note to 201.16, citing *Peerless Ins. Co. v. Manson*, 27 W (2d) 601, 135 NW (2d) 258.

Where a town mutual had in the past accepted late payment of assessments and before the loss in this case accepted a partial payment and levied another assessment, it could not deny payment of the loss under (4). Von Uhl v. Trempealeau County Mut. Ins. Co. 33 W (2d) 32, 146 NW (2d) 516.

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.

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 preceeding 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 preceeding, 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 preceeding year with the commissioner, and for failure to so file shall forfeit and pay to the state the sum of twenty-five dollars.

202.15 Reinsurance mutuals; organization. Any number of town mutual fire insurance companies not less than 9 which collectively carry fire insurance risks aggregating \$10,000,000, may form themselves into a corporation for mutual reinsurance against losses under insurance authorized in s. 202.01 (1), except losses arising under the kinds of insurance in s. 201.04 (5), (10), (11) and (18).

History: 1967 c. 254.

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.

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.

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.