

CHAPTER 203.

FIRE INSURANCE.

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203.01 Standard fire policy. (1) The commissioner shall keep on file printed forms, sizes 8½ by 11 inches and 8½ by 14 inches, in blank of the standard policy of fire insurance, containing the provisions, agreements and conditions specified in this section. An insurance company may at its option use either size. The following policy form is declared to be and shall be known as the "Standard Fire Insurance Policy of the State of Wisconsin."

[Face of Policy]

STANDARD FIRE INSURANCE POLICY OF THE STATE OF WISCONSIN.

No.

[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.]

AMOUNT \$.... RATE PREMIUM \$....

IN CONSIDERATION OF THE STIPULATIONS HEREIN NAMED AND OF DOLLARS PREMIUM DOES INSURE 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, from the day of, 19.., at noon, to the day of, 19.., at noon, against all DIRECT LOSS AND DAMAGE BY FIRE AND BY 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 indorsements.]

This policy is made and accepted subject to the foregoing stipulations and conditions, and to the stipulations and conditions printed on the back hereof, which are hereby made a part of this policy, together with such other provisions, stipulations and conditions as may be indorsed hereon or added hereto as herein provided.

IN WITNESS WHEREOF, this company has executed and attested these presents.

[Space for date and for signatures and titles of officers and agent.]

(2) Such standard fire insurance policy shall have the following matter printed, line for line, on the back thereof but it may be printed double column :

STIPULATIONS AND CONDITIONS OF POLICY.

- 1 This entire policy shall be void if the insured has with intent
 2 to deceive concealed or misrepresented any
 3 **Fraud,** material fact or circumstances concerning
 4 **misrep-** this insurance or the subject thereof; or if
 5 **resenta-** the matter misrepresented increased the risk
 6 **tion, etc.** or contributed to any loss; or in case of any
 7 **fraud or false swearing** by the insured touching any matter re-
 8 **lating to this insurance** or the subject thereof, whether before or
 9 **after a loss.**
- 10 **Uninsurable** This policy shall not cover accounts, bills,
 11 **and** currency, deeds, evidences of debt, money,
 12 **excepted property.** notes or securities; nor, unless specifically
 13 named hereon in writing, bullion, manu-
 14 **scripts, mechanical drawings, dies or patterns.**
- 15 **Hazards not** This Company shall not be liable for loss
 16 **covered.** or damage caused directly or indirectly by
 17 **invasion, insurrection, riot, civil war or**
 18 **commotion, or military or usurped power, or by order of any**
 19 **civil authority; or by theft; or by neglect of the insured to use**
 20 **all reasonable means to save and preserve the property at and**
 21 **after a fire or when the property is endangered by fire in**
 22 **neighboring premises.**
- 23 **This entire policy shall be void, unless otherwise provided by**
 24 **agreement in writing added hereto,**
- 25 **Ownership, etc.** (a) if the interest of the insured be other than
 26 unconditional and sole ownership; or (b) if
 27 the subject of insurance be a building on ground not owned by
 28 the insured in fee simple; or (c) if, with the knowledge of the
 29 insured, foreclosure proceedings be commenced or notice given
 30 of sales of any property insured hereunder by reason of any mort-
 31 gage or trust deed; or (d) if any change, other than by the death
 32 of an insured, take place in the interest, title or possession of
 33 the subject of insurance (except change of occupants without
 34 increase of hazard); or (e) if this policy be assigned before a loss.
- 35 **Unless otherwise provided by agreement in writing added**
 36 **hereto this Company shall not be liable for loss or damage**
 37 **occurring**
- 38 (a) while the hazard is increased by any
 39 **Increase of hazard.** means within the control or knowledge of
 40 the insured; or
 41 (b) while mechanics are employed in building,
 42 **Repairs, etc.** altering or repairing the described premises
 43 beyond a period of fifteen days; or
 44 (c) while illuminating gas or vapor is gener-
 45 **Explosives,** ated on the described premises; or while
 46 **gas, etc.** (any usage or custom to the contrary not-
 47 withstanding) there is kept, used or allowed on the described
 48 premises fireworks, Greek fire, phosphorus, explosives, benzine,
 49 gasoline, naphtha or any other petroleum product of greater
 50 inflammability than kerosene oil, gunpowder exceeding twenty-
 51 five pounds, or kerosene oil exceeding five barrels; or
 52 (d) if the subject of insurance be a manufact-
 53 **Factories.** uring establishment while operated in
 54 whole or in part between the hours of ten P. M. and five A. M.,
 55 or while it ceases to be operated beyond a period of ten days; or
 56 (e) while a described building, whether in-
 57 **Unoccupancy.** tended for occupancy by owner or tenant, is
 58 vacant or unoccupied beyond a period of ten days; or
 59 (f) by explosion, unless fire ensue, and, in
 60 **Explosion.** that event, for loss or damage by fire
 61 only.
- 62 **Chattel mortgage.** Unless otherwise provided by agreement in
 63 writing added hereto this Company shall

64 not be liable for loss or damage to any property insured here-
65 under while incumbered by a chattel mortgage, and during the
66 time of such incumbrance this Company shall be liable only
67 for loss or damage to any other property insured hereunder.

68 **Fall of building** If a building, or any material part thereof,
69 fall except as the result of fire, all insurance
70 by this policy on such building or its contents shall immediately
71 cease.

72 **Added clauses.** The extent of the application of insurance
73 under this policy and of the contribution to
74 be made by this Company in case of loss or damage, and any
75 other agreement not inconsistent with or a waiver of any of
76 the conditions or provisions of this policy, may be provided for
77 by agreement in writing added hereto.

78 **Waiver.** No one shall have power to waive any pro-
79 vision or condition of this policy except such
80 as by the terms of this policy may be the subject of agreement
81 added hereto, nor shall any such provision or condition be held
82 to be waived unless such waiver shall be in writing added hereto,
83 nor shall any provision or condition of this policy or any for-
84 feiture be held to be waived by any requirement, act or proceed-
85 ing on the part of this Company relating to appraisal or to any
86 examination herein provided for; nor shall any privilege or per-
87 mission affecting the insurance hereunder exist or be claimed by
88 the insured unless granted herein or by rider added hereto.

89 **Cancellation** This policy shall be canceled at any time
90 at the request of the insured, in which case
91 **of policy.** the Company shall, upon demand, and sur-
92 render of this policy, refund the excess of paid premium above
93 the customary short rates for the expired time. This policy
94 may be canceled at any time by the Company by giving to the
95 insured a five days' written notice of cancellation with or with-
96 out tender of the excess of paid premium above the pro rata
97 premium for the expired time, which excess, if not tendered,
98 shall be refunded on demand. Notice of cancellation shall state
99 that said excess premium (if not tendered) will be refunded on
100 demand.

101 **Pro rata liability.** This Company shall not be liable for a
102 greater proportion of any loss or damage
103 than the amount hereby insured shall bear to the whole
104 insurance covering the property, whether valid or not and
105 whether collectible or not.

106 **Noon.** The word "noon" herein means noon of
107 standard time at the place of loss or damage.

108 **Mortgage** If loss or damage is made payable, in whole
109 **interests.** or in part, to a mortgagee not named herein
110 as the insured, this policy may be canceled

111 as to such interest by giving to such mortgagee a ten days'
112 written notice of cancellation. Upon failure of the insured to
113 render proof of loss such mortgagee shall, as if named as insured
114 hereunder, but within sixty days after notice of such failure, ren-
115 der proof of loss and shall be subject to the provisions hereof as
116 to appraisal and times of payment and of bringing suit. On pay-
117 ment to such mortgagee of any sum for loss or damage here-
118 under, if this Company shall claim that as to the mortgagor or
119 owner, no liability existed, it shall, to the extent of such pay-
120 ment be subrogated to the mortgagee's right of recovery and
121 claim upon the collateral to the mortgage debt, but without
122 impairing the mortgagee's right to sue; or it may pay the mort-
123 gage debt and require an assignment thereof and of the mortgage.
124 Other provisions relating to the interests and obligations of
125 such mortgagee may be added hereto by agreement in writing.

126 **Requirements in** The insured shall give immediate notice, in
127 **case of loss.** writing, to this Company, of any loss or
128 damage, protect the property from further
129 damage, forthwith separate the damaged and undamaged
130 personal property, put it in the best possible order, furnish a
131 complete inventory of the destroyed, damaged and undamaged
132 property, stating the quantity and cost of each article and the
133 amount claimed thereon; and, the insured shall, within sixty
134 days after the fire, unless such time is extended in writing by
135 this Company, render to this Company a proof of loss, signed
136 and sworn to by the insured, stating the knowledge and belief

137 of the insured as to the following: The time and origin of the fire,
 138 the interest of the insured and of all others in the property, the
 139 cash value of each item thereof and the amount of loss or damage
 140 thereto, all incumbrances thereon, all other contracts of in-
 141 surance, whether valid or not, covering any of said property,
 142 any changes in the title, use, occupation, location, possession or
 143 exposures of said property since the issuing of this policy, by
 144 whom and for what purpose any building herein described and
 145 the several parts thereof were occupied at the time of fire; and
 146 shall furnish a copy of all the descriptions and schedules in all
 147 policies and if required, verified plans and specifications of any
 148 building, fixtures or machinery destroyed or damaged. The
 149 insured, as often as may be reasonably required, shall exhibit
 150 to any person designated by this Company all that remains of
 151 any property herein described, and submit to examinations
 152 under oath by any person named by this Company and
 153 subscribe the same; and, as often as may be reasonably
 154 required, shall produce for examination all books of account,
 155 bills, invoices, and other vouchers, or certified copies thereof,
 156 if originals be lost, at such reasonable time and place as may
 157 be designated by this Company or its representative, and shall
 158 permit extracts and copies thereof to be made.

160 **Appraisal.**

In case the insured and this Company shall fail to agree as to the amount of loss or
 161 damage, each shall, on the written demand of either, and within
 162 ten days after such demand, select a competent and disinterested
 163 appraiser. The appraisers shall first select a competent and dis-
 164 interested umpire; and failing for fifteen days to agree upon
 165 such umpire then, on request of the insured or this Company,
 166 such umpire shall be selected by a judge of the circuit court of
 167 the county in which the property was at time of fire. The ap-
 168 praisers shall then appraise the loss and damage stating sep-
 169 arately sound value and loss or damage to each item; and failing
 170 to agree, shall submit their differences only, to the umpire. An
 171 award in writing, so itemized, of any two when filed with this
 172 Company shall determine the amount of sound value and loss or
 173 damage. Each appraiser shall be paid by the party selecting
 174 him and the expenses of appraisal and umpire shall be paid
 175 by the parties equally.

176 **Company's**
 177 **options.**

It shall be optional with this Company to
 178 take all, or any part, of the articles at the
 179 agreed or appraised value, and also to
 180 repair, rebuild, or replace the property lost or damaged with
 181 other of like kind and quality within a reasonable time, on
 182 giving notice of its intention so to do within thirty days
 183 after the receipt of the proof of loss herein required; but
 184 there can be no abandonment to this Com-
 185 pany of any property.

185 **When loss**
 186 **payable.**

The amount of loss or damage for which
 187 this Company may be liable shall be pay-
 188 able sixty days after proof of loss, as herein
 189 provided, is received by this Company and ascertainment of
 190 the loss or damage is made either by agreement between the
 191 insured and this Company expressed in writing or by the
 192 filing with this Company of an award as herein provided.

192 **Suit.**

No suit or action on this policy, for the
 193 recovery of any claim, shall be sustainable
 194 in any court of law or equity unless all the requirements of
 195 this policy shall have been complied with, nor unless com-
 196 menced within twelve months next after the fire.

197 **Subrogation.**

This Company may require from the insured
 198 an assignment of all right of recovery
 199 against any party for loss or damage to the extent that pay-
 200 ment therefor is made by this Company.

201 **Other**
 202 **insurance.**

If there be other insurance on the property
 203 covered by this policy, whether valid or
 204 not, this Company shall not be liable for
 205 more than its proportionate share of the actual loss or damage
 thereto.

(3) (Indorsements.)

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 (name of company).

Dated

Signature of the insured.

NOTE.—To secure mortgagees, 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.

. . . . (name of company) hereby consents that the interest of as owner of the property covered by this policy be assigned to

Dated

Signature for company.

Expires

Property

Amount \$, Premium \$

No.

It is important that the written portions of all policies covering the same property read exactly alike. If they do not they should be made uniform at once.

(4) The position of the number of the policy and the arrangement of and spacing between lines indorsed on the filing side thereof may be modified by the insurer to suit its convenience provided that the information prescribed by subsection (3) hereof shall be clearly set forth thereon. It shall also be optional for insurer to insert the words "Renewal of Number" on face of policy followed by a blank line on which appropriate number may be placed.

(5) A form of notice as provided in subsection (5) of section 200.19 shall be attached to said policy. [*Stats. 1931 s. 203.04; 1933 c. 487 s. 80, 81, 81a; 1943 c. 408*]

Revisor's Note, 1933: The provision added for damage by lightning is from 203.03. Old lines 1 to 6 are amended to harmonize with 209.06 and old lines 159 to 175 to harmonize with 203.045, and old lines 59 and 60 amended to correspond with 203.03. The lines referred to now misstate the law. Old lines 35, 36 and 37 are struck out because they were repealed by 203.215, rn, 203.11 (chapter 456, Laws 1929). (Bill No. 50 S, s. 80)

Misstatements inserted in an insurance application by the insurer's agent without the assured's knowledge do not become the latter's misrepresentations by his signing the application. Failure to disclose defects in the title or incumbrance does not render the policy void unless the omission was intentional or increased the risk. *Taluc v. Fall Creek F. M. F. Ins. Co., 203 W 319, 234 NW 364.*

To forfeit a policy false swearing must be wilfully done. A false representation made with intent that it shall be acted on raises the inference of fraudulent intent and forfeits the insurance. *Fink v. La Crosse M. F. Ins. Co., 203 W 350, 234 NW 339.*

Where a husband forms a partnership with his son, which erected a building under an oral agreement that the premises, held by him and his wife jointly, should belong to the partnership and prior to the last renewal of the partnership's policy the wife died, it was held that the partnership was "unconditional and sole owner" and "owner in fee simple" within the terms of the fire policy. *Kurowski v. Retail Hardware M. F. Ins. Co., 203 W 644, 234 NW 900.*

Insurer is liable for actual damages not exceeding the amount of hail insurance applied for, where the insurer delays in notifying the applicant of the rejection of his application, for an unreasonable length of time. *Kukuska v. Home M. H.-T. Ins. Co., 204 W 166, 235 NW 403.*

For effect of other insurance not consented to, see note to 203.215, citing *Philipkowski v. Springfield F. & M. Ins. Co., 206 W 39, 233 NW 328.*

The provisions of lines 62 to 67 of the standard fire insurance policy relate to the extent of coverage, and not to the title of

the property either at the time of the execution and delivery of the policy or thereafter. Consequently, an insured could not recover for the loss of furniture incumbered by a chattel mortgage under such a policy containing no special agreement, even though in the application for the policy, which was not signed by him, no reference was made to the existence or nonexistence of the mortgage and neither he nor the insurer's agent knew that it was material; the saving provisions of 209.06 relating to representations or warranties made by the insured not being applicable. *Moe v. Allemannia F. Ins. Co., 209 W 526, 244 NW 593.*

That application for automobile liability policy contained false answers to questions as to cancellation of former policies and payment of losses thereunder to insured, held not to void policy where insurer's representative and one who brokered insurance to him knowingly inserted such false answers in application which insured did not sign. *Suschnick v. Underwriters C. Co., 211 W 474, 248 NW 477.*

Where insured left fire policy with another insurance company to be delivered to defendant insurer, thus making the other company his agent, and it held policy until after fire, so that insured's intent to cancel was never made manifest to defendant, policy was not canceled. Where fire policy required notice of loss, but did not provide that failure to give notice within time limited would work forfeiture, failure to give the notice as stipulated merely postponed maturity of claim. *Ciokewicz v. Lynn M. F. Ins. Co., 212 W 44, 248 NW 778.*

A mortgagee may protect his interest in the mortgaged property by a loss-payable clause or by a standard mortgage clause (in a fire insurance policy issued to the mortgagor) or by a policy issued to the mortgagee himself. The rights of a mortgagee under a standard fire policy to which is attached a standard mortgage clause are subject to all the terms of the policy except those which are expressly waived by the insurer in the rider containing the mortgage clause. Such waiver does not affect the option of the insurer to rebuild the destroyed property. The insurer could not exercise its option to re-

build the destroyed property by offering to rebuild the barn, where the barn and a silo, although separately valued in the policy, together constituted a single structure. *State Bank of Chilton v. Citizens M. F. Ins. Co.*, 214 W 6, 252 NW 164.

An automobile fire insurance policy taken out by a dealer in secondhand automobiles, containing a clause that unless otherwise provided the insurer should not be liable for loss or damage to any property insured thereunder while subject to any lien, mortgage, or other incumbrance, is construed not to cover automobiles which at the time of their destruction by fire were subject to an equitable mortgage in favor of a third party who financed the operations of the dealer. Where the intention was to cover the specific cars described in the policy and the agent of the insurer had knowledge that the cars were in fact mortgaged but the effect of the policy as written was to exclude coverage on mortgaged cars, there was a mutual mistake of the parties as to the effect of the policy, which, although a mistake of law, authorizes reformation of the policy to make it express the intention of the parties. *Fountain v. Importers & Exporters Ins. Co.*, 214 W 556, 252 NW 569.

Under an "open" loss-payable clause in a fire policy, which is one making the mortgagee an appointee only (by making loss, if any, payable to the mortgagee as his interest may appear), no assignment of the policy is effected, and the interest of the mortgagee is measured, not by any interest in the property insured, but by the amount due upon the obligation, the payment of which is to be secured. *Cary Mfg. Co. v. Acme B. & M. Works*, 215 W 585, 254 NW 513.

A fire policy excluding from coverage property incumbered by chattel mortgage, did not cover mortgaged chattels destroyed which were of a kind that was exempt from execution to a specified amount in value upon the claiming of the exemption, where the insured had made no claim of exemption so as to avoid the effect of the chattel mortgage. Under such a policy, incumbrances operate to withdraw the incumbered property from the protection of the policy, but do not work a forfeiture of the policy. *Mielke v. National Reserve Ins. Co.*, 216 W 148, 256 NW 776.

A lessee under a lease entered into following the lessee's inability to perform the terms of a land contract, who removed from the leased premises in accordance with a provision in the lease for delivering up the premises upon default, thereby terminated his rights under the lease and relinquished all his interest in the premises, so that the lessor, named in a short form loss-payable clause attached to a fire policy issued to the lessee, could not recover for a fire occurring after the lessee's removal, under a provision in the policy that the entire policy should be void if any change took place in the interest, title, or possession of the insured premises. *Kornftved v. American Ins. Co.*, 216 W 470, 257 NW 670.

The word "default" in a provision of a mortgage clause in a mutual fire policy, to the effect that no "default" of the mortgagor should affect the mortgagee's right to recover in case of loss unless notice had been given to the mortgagee, is construed, in connection with other provisions of the mortgage clause, as not meaning merely a default in payment of assessments but as meaning any "act or neglect" of the mortgagor in violation of the contract of insurance; and hence the conversion of the insured premises into an excepted risk by the installation of a still, while voiding the policy as to the mortgagor, would not do so as to the mortgagee without notice. *Bank of Cashton v. La Crosse C. S. T. M. Ins. Co.*, 216 W 513, 257 NW 451.

Defaults of a vendee under a land contract, occurring subsequently to the date of a standard fire policy issued to such vendee, do not change the vendee's status as "unconditional and sole owner" or effect a "change in the interest, title, or possession" of the insured premises, so as to void the policy, in the absence of a complete forfeiture of the land contract by the vendor,

assignment of the contract by the vendee, or acts by the vendee amounting to a surrender of his rights under the contract. *De Keyser v. National L. Ins. Co.*, 216 W 566, 257 NW 673.

Proof that insurance agent was informed of sale of homestead to insured by insured's parents does not establish waiver by insurer of fire policy provision requiring unconditional ownership, where in fact no title was transferred due to absence of written contract. *Bartz v. Eagle Point M. F. Ins. Co.*, 218 W 551, 260 NW 469.

Insurer who paid fire losses, and who was assigned causes of action which insureds had against persons who set fire to building, was entitled to recover sum paid in settlement of fire losses from person who set fire to building, notwithstanding insanity of such person. *Guardianship of Meyer*, 218 W 382, 261 NW 211.

Although the Wisconsin standard fire policy contains a provision that it shall be void if the interest of the insured be other than unconditional and sole ownership, where an insurer had notice that the property insured under a prior standard policy was owned jointly by the insured and his wife, the insurer was estopped from declaring void a subsequent policy issued to the insured as sole owner, which was in effect a renewal of the prior policy; an insurer, upon renewing a policy, being charged with such knowledge as to ownership as it had at the time it issued a prior policy. Where the policy was designated as a standard policy and an article of the insurer's constitution adopting the standard policy was printed in the policy issued, the insured had a right to rely on the representation that the policy complied with the insurer's constitution and was a standard policy. *Johnson v. Hartland Farmers' M. F. S. Ins. Co.*, 220 W 77, 264 NW 480.

A fire policy issued by an agent covering his own property or property in which he has an interest is voidable, not void, and is therefore susceptible of ratification. The purpose of the pro rata liability clause in the standard fire policy is to relieve an insurer from the burden or necessity of litigating with the insured questions as to the validity of other policies covering the insured property and to guard against inducement to the insured to commit fraud. Under such clause, an insurer was entitled to prorate its liability, where an additional policy on the property had been issued by the insured to themselves in a company for which they were agents, although the property was destroyed before such company had had an opportunity to ratify or disaffirm such policy. *Kisow v. National Liberty Ins. Co.*, 220 W 536, 265 NW 569.

The failure of the insured to inform the insurance agent that judgment of foreclosure had been entered against the property at the time of oral application for insurance did not void the policies, where the fact of such judgment was not then known to the insured. The failure of the insured's agent, in making oral application for insurance, to disclose that the insured's title was incumbered by a second mortgage and a judgment lien was not a concealment of material facts avoiding the policies, where no questions leading to the disclosure of these incumbrances were asked, and the insurance agent had knowledge of the general condition of the property, its location, and its worth. The mortgagor's title after entry of judgment of foreclosure but before sale, was that of "unconditional and sole ownership," within a policy provision that the policy should be void if the interest of the insured be other than unconditional and sole ownership. *Koch v. Transcontinental Ins. Co.*, 223 W 105, 269 NW 539.

An insured cannot have a standard fire policy reformed by the substitution of provisions inconsistent with its standard provisions. *Ottens v. Atlas Assur. Co.*, 226 W 596, 275 NW 900.

In the prescribed space for description of property in a standard fire policy, stating the location of the insured property and that it consisted of a building "occupied and to be occupied only for dwelling purposes,"

the quoted phrase is construed as being purely descriptive and not as an additional limitation on the coverage, and hence the policy was not suspended at the time of a fire merely because the fire occurred while the insured building was occupied for other than dwelling purposes only. *Home Mut. B. & L. Ass'n v. Northwestern Nat. Ins. Co.*, 236 W 475, 295 NW 707.

An "unconditional ownership" is an ownership of an estate without condition, and although the title of an insured to property covered by a standard fire policy may be fatally defective, yet if no condition is annexed to his title and no one shares the title with him, he is a "sole and unconditional owner" within the meaning of that clause of the policy rendering the policy void if the interest of the insured

is other than "unconditional and sole ownership." *Miller v. Yorkshire Ins. Co.*, 237 W 551, 297 NW 377.

Where the insured held title under a deed to herself and sister and a subsequent quitclaim deed to herself from the sister, given prior to the insured's obtaining of a standard fire policy on a residence located on the premises, the fact that the sister had an interest in the proceeds to be derived from the sale of the premises, when made, attached no "condition" to the insured's title, and the interest of the insured in the premises was that of "unconditional and sole ownership," within the meaning of a policy provision rendering the policy void if the interest of the insured were otherwise. *Keller v. Hartford Fire Ins. Co.*, 239 W 354, 300 NW 471.

203.02 Fire policies, other conditions. (1) If the policy be made by a company having special regulations lawfully applicable to its organization, membership or policies, such regulations shall apply to and form a part of the policy if the same are written or printed upon or appended to the policy.

(3) Every mutual fire insurance company shall contain in its name, which shall be upon the first page in every policy or renewal receipt, the word mutual, and every stock corporation shall, upon the face of its policies, express that it is a stock corporation. [*Stats. 1931 s. 201.23, 203.20; 1933 c. 487 s. 82, 83, 98; 1943 c. 357*]

203.025 [*Renumbered section 203.03 by 1933 c. 487 s. 85*]

203.03 Sole ownership, exception. The provisions of the standard fire insurance policy as to sole ownership and change of ownership, set forth in lines 23 to 34 of said standard fire insurance policy, shall not be held to apply to cases where the ownership is a joint tenancy of the insured and the wife or husband of the insured or the change of ownership is from sole ownership to joint tenancy of the wife or husband of the insured. [*Stats. 1931 s. 203.025; 1933 c. 487 s. 85*]

203.04 Insurance appraisals. (1) Whenever an appraisal is demanded and an appraiser appointed under the standard fire insurance policy, the other party shall designate an appraiser within ten days after receipt of notice of such demand and appointment. If no appraiser is appointed by such other party, the party demanding the appraisal may make application for the appointment of an umpire, in the manner provided in subsection (2) of this section. Such umpire together with the appraiser named by the one party shall thereupon act as a board of appraisers and their award shall be as binding as though both parties had chosen appraisers.

(2) Application for the selection of an umpire pursuant to the provisions relating to appraisals shall be made to a judge of the circuit court of the county in which the property insured was located at the time of the fire, on five days' notice in writing, to be given by either party to the other. Such notice when served by the insured must be served as provided in section 262.09 (4) or (8); and the judge shall, on proof by affidavit of the failure or neglect of said appraisers to select an umpire within the time provided in said policy, and of the service of notice aforesaid, forthwith appoint a competent and disinterested person to act as umpire in the ascertainment of the amount of said loss or damage. [*1931 c. 308; Stats. 1931 s. 203.045; 1933 c. 487 s. 86; 43.08 (2)*]

203.045 [*Renumbered section 203.04 by 1933 c. 487 s. 86*]

203.05 Part of fire premiums held as trust fund. Unless otherwise specified in an indorsement on the policy, which is hereby authorized, the company shall hold as a deposit in trust for the insured, for which he shall have a preferred claim, a pro rata part of the premiums paid on every standard fire insurance policy. [*1933 c. 487 s. 87*]

203.06 Standard policy compulsory, additions. (1) No person except town mutual insurance companies, shall issue, use or deliver for use any fire insurance policy on property in this state, unless it shall conform in all particulars as to blanks, size of type, context, provisions, agreements and conditions with the printed forms of policy, sizes 8½ by 11 inches and 8½ by 14 inches, filed in the office of the commissioner as provided for in sections 203.01 to 203.08, and no other or different provisions, agreements, conditions or clauses shall be a part of said policy, or be indorsed thereon or delivered therewith, except that the name of the company, its location or place of business, the date of its incorporation or organization and the state or country under which the same is organized, the amount of paid-up capital, whether it is a stock or mutual company, the name of its officers, and, if it be issued through a manager or agent of the company, the words "This policy shall not be valid until countersigned by the duly authorized manager or agent of the company at . . .," may be printed on the policies. Subject to

the approval of the commissioner there may be placed on the policy any emblem or medallion commonly used by such company.

(2) (a) There may be inserted in the space indicated therefor or added to the policy by agreement in writing thereon or by indorsement thereto, the following:

1. Descriptions and specifications by schedule or otherwise of the property covered by the policy.

2. Any matter stating the extent of the application of the insurance under the policy.

3. Any matter stating the extent of the contribution to be made under the policy in case of loss or damage.

4. Any matter necessary to express all the facts and conditions relating to insurance on any particular risk.

5. In case of a mortgagee, or other person holding an interest in property by way of security, who is not named in the policy as an assured, a rider or indorsement, relating to the interest of such mortgagee or other person may be added to such policy. Provided, however, if the policy insures real estate, any losses of the amount of \$50 or less shall be paid by the company solely to the assured mortgagor.

(b) Every agreement or indorsement shall be plainly printed and in a type not smaller than 8-point and the facts or conditions of such agreement or indorsement shall not defeat or diminish the rights of the insured under the provisions of the standard fire insurance policy.

(c) Indorsements may be added to the standard fire insurance policy whereby the property described in such policy may be insured against any other risk authorized by statute which the insurer is empowered to assume under its charter, in addition to the risk of loss or damage by fire and lightning. The rate and premium for each additional risk assumed by indorsement may be clearly shown on the face of the standard fire insurance policy, directly below the fire rate and premium and in addition, it is permissible to show the total premium for all risks assumed under the policy and the indorsements attached thereto, together with a statement in substance that only such hazards are insured against as are indicated by such applicable rates and premiums and by the applicable riders and indorsements attached to such policy.

(3) A company may, with the approval of the commissioner, if the same is not already included in the standard form, print on its policies any provision, which it is required by law to insert therein, if such provision be not in conflict with the laws of this state or of the United States, or of the provisions of the standard fire insurance policy, but any such provision shall be printed apart from the other provisions of the policy, and in type not smaller than the body of the policy, and under this title: "Provisions required by law to be stated in this policy," and be a part of said policy.

(4) The name, with the word "agent" and place of business of any insurance agent may be indorsed on the policy.

(5) Where companies issue a joint policy there may be expressed in the heading of such policy the fact of the severalty of the contract; the proportion of premium to be paid to each company; the proportion of liability which each company agrees to assume; and in the printed conditions of such policy the necessary change may be made from the singular to the plural number, when reference is had to the companies issuing such policy. [1933 c. 487 s. 88; 1941 c. 108; 1943 c. 192, 408, 472; 1943 c. 553 s. 32]

Note: A rider, not being standard form, attached to a fire policy is construed most strongly against the insurer. A haybaler and silo filler are farm machinery and in this case were temporarily off the premises. *Lewis v. Insurance Co.*, 203 W 324, 234 NW 499.

203.07 Unauthorized insurance voidable. (1) All insurance against loss by fire or lightning upon property in this state shall be held to be made within this state.

(2) No unauthorized insurer shall issue, directly or indirectly, any policy on property in this state, except as specifically authorized by law. All policies issued in violation of this section are unenforceable by the insurer. [1933 c. 487 s. 89]

Revisor's Note, 1933: This section conflicts with the last part of 203.08, and is amended to reconcile the two. (Bill No. 50 S, s. 89)

203.08 Penalties; company bound by voidable contract. Any insurance company, or officer or agent violating any provision of sections 203.01 to 203.07, by issuing, delivering or offering to deliver any policy of fire insurance on property in this state, shall be fined not less than fifty dollars nor more than one hundred dollars for the first offense, and not less than one hundred dollars nor more than two hundred and fifty dollars for each subsequent offense; but any policy so issued and delivered shall be binding upon the company, and such act shall be cause for revoking the company's authority to do business in this state. [1933 c. 487 s. 90]

Revisor's Note, 1933: It is thought that the statute contemplates an express revocation of license. That is the more orderly way and gives the company a chance to be heard. The fault might be wholly that of an agent. (Bill No. 50 S, s. 90)

203.09 Board of underwriters; fire patrol. (1) INCORPORATION. Three or more fire insurance agents or companies in any city may incorporate as a board of underwriters in such city under the provisions of chapter 180.

(2) FIRE PATROL; DUTIES. The board may establish a fire patrol in such city, and may appoint and remove at pleasure a superintendent and such number of patrols as it shall deem proper and provide suitable accommodations and apparatus for such patrol, and make needful regulations for the government and direction thereof; the duty of such patrol shall be to discover and prevent fires and to save life and property at and after fires, and for that purpose such superintendent and patrol may enter any building on fire or which may be in danger of taking fire, subject to the control of the chief of the city fire department, and to remove property therefrom at or immediately after a fire and to guard and protect the same.

(3) ANNUAL MEETING, BUSINESS. The board shall meet in January in each year; prior notice of such meeting, specifying the time and place, shall be inserted at least ten days prior thereto in a local daily newspaper; at such meeting each insurance company or agent doing a fire insurance business in such city and who has become a member of such corporation shall have the right to be present and each company shall be entitled to one vote. Membership in any such corporation or board shall be optional. Such meeting may determine whether a fire patrol shall be established, or continued if established, and fix the maximum expenses which shall be incurred therefor during the ensuing year; but not exceeding two per cent of the premiums for fire insurance received in such city during such year.

(4) EXPENSES OF FIRE PATROL. On the first day of each February each insurance company or agent doing fire insurance business in such city who has become a member of such corporation or board shall furnish said board a sworn statement of the amount of premiums received for insuring property in such city during the preceding calendar year. The board shall assess the amount fixed for said expenses for the current year upon the several member companies or agents, in proportion to the amount of the premiums received by each, and such assessments may be recovered by such board. If statements shall not be made as above required, the board shall serve a written demand therefor on the delinquent member company or agent personally or by leaving the same during business hours at its or his office with the person in charge thereof; and every such member company or agent who shall wilfully make a false statement, or who shall, for fifteen days after such demand, neglect to render such statement, shall forfeit fifty dollars and an additional fifty dollars for each day's neglect after the expiration of said fifteen days, one-half to the use of said board, when it shall prosecute therefor. [*Stats. 1931 s. 203.16 to 203.19; 1933 c. 487 s. 91; 1939 c. 268*]

Revisor's Note, 1933: The law is not changed, except to permit personal service. (Bill No. 50 S, s. 91)

An amendment to the articles of incorporation of a board of fire underwriters extending membership to each insurance company doing business in the county instead of limiting them to those doing business within the city was invalid. *Milwaukee Board of Fire Underwriters v. Badger Mut. Fire Ins. Co.*, 230 W 60, 283 NW 342.

Where a mutual insurance company was excluded from membership in the board of fire underwriters and therefore was not subject to assessments, but voluntarily paid assessments and reported premiums for the purpose of fixing the assessments for several years, the mutual company was not estopped to deny the board's right to assess the company in the future. *Milwaukee Board of Fire Underwriters v. Badger Mut. Fire Ins. Co.*, 230 W 60, 283 NW 342.

203.10 [*Renumbered section 201.45 sub. (1) by 1933 c. 487 s. 65*]

203.11 Effect of other policies on same risk. Whenever a condition is included in any fire insurance policy issued in this state that unless provided by agreement in writing added thereto the insuring company shall not be liable for loss or damage occurring while the insured shall have any other contract of insurance, whether valid or not, on property covered in whole or in part by such policy, such other or additional insurance, whether with or without knowledge of the insuring company, shall nevertheless not operate to relieve the insuring company from liability for loss or damage occurring while the insured shall have such other contract of insurance, whether valid or not. Subject to all other terms and conditions of its policy, each insuring company shall be liable for its proportionate share of any such loss or damage, but in no event shall the insured be entitled to recover from any or all of such insuring companies a sum greater than his actual loss or damage. [*Stats. 1931 s. 203.215; 1933 c. 487 s. 92*]

Note: This section enacted after the issuance of the standard form policy sued upon, did not affect the clause suspending liability if additional insurance is procured without the insurer's written consent, because the statute is not made retroactive by its terms

and to so construe it would render it unconstitutional as impairing the obligation of contracts. *Filipkowski v. Springfield F. & M. Ins. Co.*, 206 W 39, 238 NW 328.

Statute respecting recovery where there is condition in fire policy voiding other in-

surance did not apply where policy provided that insurer should not be liable for greater portion of loss than amount insured should bear to whole insurance. Insured held entitled to recover full amount of fire policy under valued policy law, though he had received some insurance from another com-

pany and total recovery would exceed value of property. *Ciokewicz v. Lynn M. F. Ins. Co.*, 212 W 44, 248 NW 778.

As to effect of pro rata liability clause see note to 203.01, citing *Kisow v. National Liberty Ins. Co.*, 220 W 586, 265 NW 569.

203.12 Compulsory return of surrender value; table to ascertain same. Any company, association or corporation transacting the business of insuring property against loss or damage from any cause except steam boiler, flywheel or elevator insurance shall, except as is otherwise provided by any provision applicable to any class of insurance companies, cancel any policy at any time, by request of the party insured or his assignee, and return to said party the amount of premium paid, less the earned premium for the expired portion of the full term for which the policy has been issued as specified in the following tables:

TABLE A.
Percentages of the Annual Premiums to be Charged or Retained for Periods Less Than One Year.

Days	Per Cent	Days	Per Cent	Days	Per Cent	Days	Per Cent	Days	Per Cent	Days	Per Cent
1		61	31.17	121	50.33	181	70.17	241	80.17	301	90.17
2	2.10	62	32.10	122	50.67	182	70.34	242	80.34	302	90.34
3	3.86	63	32.80	123	51.00	183	70.50	243	80.50	303	90.50
4	5.25	64	33.27	124	51.33	184	70.67	244	80.67	304	90.67
5	6.26	65	33.50	125	51.67	185	70.84	245	80.84	305	90.84
6	7.00	66	34.32	126	52.00	186	71.00	246	81.00	306	91.00
7	8.00	67	34.97	127	52.33	187	71.17	247	81.17	307	91.17
8	8.80	68	35.46	128	52.67	188	71.34	248	81.34	308	91.34
9	9.40	69	35.79	129	53.00	189	71.50	249	81.50	309	91.50
10	9.80	70	35.95	130	53.33	190	71.67	250	81.67	310	91.67
11	10.00	71	36.30	131	53.67	191	71.84	251	81.84	311	91.84
12	11.33	72	36.53	132	54.00	192	72.00	252	82.00	312	92.00
13	12.40	73	36.79	133	54.33	193	72.17	253	82.17	313	92.17
14	13.20	74	36.93	134	54.67	194	72.34	254	82.34	314	92.34
15	13.73	75	37.00	135	55.00	195	72.50	255	82.50	315	92.50
16	14.00	76	37.50	136	55.33	196	72.67	256	82.67	316	92.67
17	15.00	77	37.90	137	55.67	197	72.84	257	82.84	317	92.84
18	15.80	78	38.20	138	56.00	198	73.00	258	83.00	318	93.00
19	16.40	79	38.40	139	56.33	199	73.17	259	83.17	319	93.17
20	16.80	80	38.50	140	56.67	200	73.34	260	83.34	320	93.34
21	17.00	81	38.85	141	57.00	201	73.50	261	83.50	321	93.50
22	17.70	82	39.13	142	57.33	202	73.67	262	83.67	322	93.67
23	18.26	83	39.34	143	57.67	203	73.84	263	83.84	323	93.84
24	18.68	84	39.48	144	58.00	204	74.00	264	84.00	324	94.00
25	18.96	85	39.55	145	58.33	205	74.17	265	84.17	325	94.17
26	19.10	86	39.70	146	58.67	206	74.34	266	84.34	326	94.34
27	19.40	87	39.82	147	59.00	207	74.50	267	84.50	327	94.50
28	19.64	88	39.91	148	59.33	208	74.67	268	84.67	328	94.67
29	19.82	89	39.97	149	59.67	209	74.84	269	84.84	329	94.84
30	19.94	90	40.00	150	60.00	210	75.00	270	85.00	330	95.00
31	20.00	91	40.33	151	60.33	211	75.17	271	85.17	331	95.17
32	21.17	92	40.67	152	60.67	212	75.34	272	85.34	332	95.34
33	22.10	93	41.00	153	61.00	213	75.50	273	85.50	333	95.50
34	22.80	94	41.33	154	61.33	214	75.67	274	85.67	334	95.67
35	23.27	95	41.67	155	61.67	215	75.84	275	85.84	335	95.84
36	23.50	96	42.00	156	62.00	216	76.00	276	86.00	336	96.00
37	24.32	97	42.33	157	62.33	217	76.17	277	86.17	337	96.17
38	24.97	98	42.67	158	62.67	218	76.34	278	86.34	338	96.34
39	25.46	99	43.00	159	63.00	219	76.50	279	86.50	339	96.50
40	25.79	100	43.33	160	63.33	220	76.67	280	86.67	340	96.67
41	25.95	101	43.67	161	63.67	221	76.84	281	86.84	341	96.84
42	26.30	102	44.00	162	64.00	222	77.00	282	87.00	342	97.00
43	26.58	103	44.33	163	64.33	223	77.17	283	87.17	343	97.17
44	26.79	104	44.67	164	64.67	224	77.34	284	87.34	344	97.34
45	26.93	105	45.00	165	65.00	225	77.50	285	87.50	345	97.50
46	27.00	106	45.33	166	65.33	226	77.67	286	87.67	346	97.67
47	27.50	107	45.67	167	65.67	227	77.84	287	87.84	347	97.84
48	27.90	108	46.00	168	66.00	228	78.00	288	88.00	348	98.00
49	28.20	109	46.33	169	66.33	229	78.17	289	88.17	349	98.17
50	28.40	110	46.67	170	66.67	230	78.34	290	88.34	350	98.34
51	28.50	111	47.00	171	67.00	231	78.50	291	88.50	351	98.50
52	28.85	112	47.33	172	67.33	232	78.67	292	88.67	352	98.67
53	29.13	113	47.67	173	67.67	233	78.84	293	88.84	353	98.84
54	29.34	114	48.00	174	68.00	234	79.00	294	89.00	354	99.00
55	29.48	115	48.33	175	68.33	235	79.17	295	89.17	355	99.17
56	29.55	116	48.67	176	68.67	236	79.34	296	89.34	356	99.34
57	29.70	117	49.00	177	69.00	237	79.50	297	89.50	357	99.50
58	29.82	118	49.33	178	69.33	238	79.67	298	89.67	358	99.67
59	29.91	119	49.67	179	69.67	239	79.84	299	89.84	359	99.84
60	29.97	120	50.00	180	70.00	240	80.00	300	90.00	360	100.00

TABLE B.

Percentages of Premiums to be Charged or Retained as Earned Premiums on Policies Written for Periods More Than One Year.

Time Months	2-year Policy	3-year Policy	4-year Policy	5-year Policy
1	11%	8%	6%	5%
2	17	12	9	8
3	23	16	12	10
4	29	20	15	13
5	34	24	18	15
6	40	28	22	18
7	43	30	23	19
8	46	32	25	20
9	49	34	26	21
10	51	36	28	23
11	54	38	29	24
12	57	40	31	25
13	61	43	33	27
14	64	45	35	29
15	68	48	37	30
16	71	50	38	31
17	75	53	40	33
18	79	55	42	34
19	82	58	44	36
20	86	60	46	38
21	89	62	48	39
22	93	65	50	41
23	96	68	52	42
24	100	70	54	44
25	---	73	56	45
26	---	75	58	47
27	---	78	60	48
28	---	80	62	50
29	---	82	63	52
30	---	85	65	53
31	---	88	67	55
32	---	90	69	56
33	---	92	71	58
34	---	95	73	59
35	---	98	75	61
36	---	100	77	63
37	---	---	79	64
38	---	---	81	66
39	---	---	83	67
40	---	---	85	69
41	---	---	87	70
42	---	---	89	72
43	---	---	90	73
44	---	---	92	75
45	---	---	94	77
46	---	---	96	78
47	---	---	98	80
48	---	---	100	81
49	---	---	---	83
50	---	---	---	84
51	---	---	---	86
52	---	---	---	88
53	---	---	---	89
54	---	---	---	91
55	---	---	---	92
56	---	---	---	94
57	---	---	---	95
58	---	---	---	97
59	---	---	---	98
60	---	---	---	100

On policies written for more than one year at pro rata of the annual rate and upon which the elapsed time is less than one year, short rates of the full annual premiums must be charged as provided in the short rate table for other than term risks. Policies written for more than one year at pro rata of the annual rate and upon which the elapsed time is one year or more than one year must be canceled pro rata. [1933 c. 487 s. 93]

Note: 203.12, relating to the compulsory return of unearned premium, in connection with 201.18 (1) and 204.27, relating to unearned premium reserves, indicates a plain statutory purpose that the cost of furnishing insurance shall be collected by a charge known as a "premium," that reserves shall be set up against this premium, and that specified portions of the premium indicated in the statutory tables shall be returned as unearned on cancellation of the insurance, and requires the conclusion that the amount exacted to cover the cost of insurance shall buy insurance protection which may be so

measured that the unearned portion of the premium deposit may be ascertained and re-

turned. *Duel v. State Farm Mut. Auto Ins. Co.*, 240 W 161, 1 NW (2d) 887, 2 NW (2d) 871.

203.13 Notice to agent, notice to company; beneficiary misnamed, immaterial when.

(1) Knowledge of an agent of a fire, casualty or marine insurance company at the time a policy is issued or an application made shall be knowledge of the company, and any fact which breaches a condition of the policy and is known to the agent when the policy is issued or the application made shall not void the policy or defeat a recovery thereon in the event of loss.

(2) Error or mistake in designating the person to whom the insurance is payable in a policy of fire insurance shall not void the policy notwithstanding its terms, unless it shall be found as a fact that such error or mistake was due to fraud, misrepresentation or concealment on the part of the owner of the property, or the person representing him, in procuring the issue of the policy, or that the company would not have issued or continued the policy if it had known the facts.

(3) If an agent of any fire, casualty or marine insurer by any act, statement or representation, after a loss and made in reference to notice of loss, or care of property or proofs of loss in connection with such loss, although such act, statement or representation may not have been authorized by the company, shall cause or induce an assured to refrain from doing an act required to be done under the policy of insurance or to delay such act or do it in a manner different from that required by the policy, then such failure to act or delay or doing of such act in a manner different than that prescribed by the policy shall not be a defense to the company or other insurer notwithstanding any provision in the policy unless such failure to act or delay or the doing of such act in a manner different from that prescribed in the policy shall actually have substantially misled or prejudiced the insurer, or unless such act, statement or representation shall have been made in collusion with assured to deceive or defraud the insurer. Nothing herein contained shall in any case be construed to limit or restrict any existing rule of law as to the insurer being bound by the knowledge, statements, acts or representations of an agent but shall apply only to cases where the company would not, under the rules of law heretofore existing, be bound by the acts, statements or representations of the agent. [1931 c. 330; *Stats. 1931 s. 209.08; 1933 c. 487 s. 95*]

Note: Under (1) the knowledge of such general agent respecting the title and the son's interest in the insured automobile is knowledge of the insurer, and such imputed knowledge when the policy was first issued is imputed at subsequent renewals thereof. Where the insurer, knowing that a person not named in the policy as owner held a beneficial interest in the automobile covered, issued its policy to protect him, it was estopped to deny liability after an accident. *Newburg v. United States F. & G. Co.*, 207 W 344, 241 NW 372.

An insurer is charged with the knowledge had by its agent at the time of application for a burglary policy that the premises of the insured were burglarized within five years prior to the date of the application, although a warranty stated that no burglary had occurred within five years. *McKinnon v. Massachusetts B. & I. Co.*, 213 W 145, 250 NW 503.

See note to 209.06, citing *Kline v. Washington N. Ins. Co.*, 217 W 21, 258 NW 370.

The fact that the insured building was unoccupied when destroyed by fire did not defeat recovery on the policy, where the insured at the time of applying for insurance had informed the agent of the insurance company that the premises were then vacant and would remain vacant until the insured could make suitable repairs so as to rent the building, since under the statute the knowledge which the agent had at the time of the issuance of the policy was knowledge of the company, and the issuance of the policy in the circumstances waived any provision therein as to vacancy or unoccupancy then existing. *Keller v. Hartford Fire Ins. Co.*, 239 W 354, 300 NW 471.

The knowledge of an insurance agent at the time a fire policy was issued was knowledge of the company. *Fish v. Connecticut Fire Ins. Co.*, 241 W 166, 5 NW (2d) 779.

203.14 [*Renumbered section 201.47 by 1933 c. 487 s. 68*]

203.15 Licensed company not to reinsure unlicensed one; reinsurance by retiring company. (1) No fire insurance company shall reinsure or assume in any manner or form, the whole or any part of any risk or liability covering property in this state, of any unlicensed insurance company.

(2) Any licensed fire insurance company or reinsurance company shall, on retiring from business before the expiration of its policies, file with the commissioner a written notice of such intention, together with a sworn statement of its outstanding liabilities or obligations under such policies, and shall reinsure such liabilities or obligations in a company authorized to do business in this state. [*Stats. 1931 s. 201.27; 1933 c. 487 s. 96*]

203.16 Guarantee surplus and special reserve. (1) **HOW CREATED; COMMISSIONER'S DUTY.** The board of directors of any fire insurance corporation may by resolution create a guaranty surplus fund and a special reserve fund. Upon filing a copy of the resolution with the commissioner he shall make an examination of such corporation and record a certificate, which shall particularly set forth the amount of its surplus funds at that time which may be equally divided between and set apart to constitute such funds. Thereafter all policies and renewals issued shall have printed thereon a notice that they are issued subject to the provisions of this section.

(2) **DIVIDENDS; SURPLUS; HOW ESTIMATED.** Thereafter such corporation shall not declare or pay any dividend exceeding seven per cent per annum upon its capital stock until after its guaranty surplus fund and its special reserve fund shall together equal its capital stock. The surplus profits of such corporation above such annual dividend shall be equally divided between and be set apart to said funds, which shall be held and used as hereinafter provided and not otherwise. Any corporation which shall declare or pay any dividend contrary to the provisions of this section shall be liable to dissolution. In estimating such surplus profits there shall be deducted from the gross assets of the corporation the sum of the following items: All outstanding claims; an amount sufficient to meet its liability for the unearned premiums received on policies having a one-year term or less and a pro rata proportion of the premiums received on the policies having more than a one-year term; its guaranty surplus fund and its special reserve fund; the capital of the corporation; and seven per cent per annum upon the capital for whatever time shall have elapsed since the last cash dividend. The balance shall constitute such surplus profits.

(3) **INVESTMENT OF SURPLUS AND SPECIAL FUND.** Said guaranty surplus fund shall be invested in the same manner as capital, and shall be held liable and applicable in the same manner as the capital to the payment of the losses; and such special reserve fund shall be invested only as capital may be, and shall be deposited from time to time as the same shall be invested with the state treasurer, who shall permit said corporation to collect and receive the interest or dividends upon such securities as the same may accrue; but no such securities so deposited shall be withdrawn unless others of equal amount and value are substituted therefor; and such special reserve fund shall be deemed a fund contributed by the stockholders to protect such corporation and its policyholders in case of extraordinary conflagrations; and said fund shall not be liable for any claims for losses except as hereinafter provided.

(4) **CONFLAGRATION, APPLICATION OF RESERVE; DISCHARGE OF COMPANY; NEW CAPITAL.** In the event of an extensive conflagration, whereby the claims upon any corporation shall exceed the amount of the capital and of its guaranty surplus fund, the corporation shall notify the commissioner, who shall then make an examination of the corporation, and shall certify the result in duplicate showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability and of other assets, one copy to be given to the corporation and one to be recorded in the insurance department; thereupon the special reserve fund shall be held to protect all policyholders other than such as are claimants at the time or such as become claimants in consequence of such conflagration. Such special reserve fund and an amount equal to the unearned premiums of such corporation, to be ascertained as provided in subsection (2), shall constitute the capital and assets of such corporation for the protection of policyholders, other than such claimants, and for the further conduct of its business. Such certificate of the commissioner shall be binding and conclusive upon all parties interested, and upon pro rata payment of claims existing at the time of or caused by such conflagration, of the full sum of the capital of such corporation, its guaranty surplus fund and its assets, excepting only such special reserve fund and assets equal to its liability for unearned premiums as so certified, such corporation shall be forever discharged from all liability to such claimants and to each of them. The state treasurer shall thereupon and upon demand of such corporation, transfer to it all securities it shall have deposited with him as such special reserve fund; and if the amount of such special reserve fund be less than fifty per cent of the full amount of the capital of the corporation, a requisition shall be issued by the commissioner upon the stockholders to make up such capital to that proportion of its full amount; and up to at least two hundred thousand dollars; and in case such corporation shall fail to make up its capital to said amount of two hundred thousand dollars, said special reserve fund shall still be held as security and liable for any and all losses occurring upon its policies after such conflagration.

(5) **CONFLAGRATION, RESTORATION OF CAPITAL.** If at any time it shall appear upon examination by the commissioner that the capital of such corporation has, without the occurrence of any such extensive conflagration, become impaired, and he shall order a call upon the stockholders to make up such impairment, the board of directors may either require the necessary payment by the stockholders or transfer to capital so much of said special reserve fund as will make such impairment good. [*Stats. 1931 s. 201.31 to 201.35; 1933 c. 487 s. 97*]

203.17 to 203.19 [*Renumbered section 203.09 (2) to (4) by 1933 c. 487 s. 91*]

203.20 [*Renumbered section 203.02 sub. (3) by 1933 c. 487 s. 98*]

203.21 Total loss measured by amount written in policy. Whenever any policy insures real property and the property is wholly destroyed, without criminal fault on the part of the insured or his assigns, the amount of the policy shall be taken conclusively to

be the value of the property when insured and the amount of loss when destroyed. [1933 c. 487 s. 99]

Note: In case of total loss by fire the amount of the policy is the measure of damages and appraisal proceedings under the policy are ineffective. *Eck v. Netherlands Ins. Co.*, 203 W 515, 234 NW 718.

The rule that where the insured under a valued policy has some insurable interest subject to hazard, the agreed valuation, in the absence of fraud, accident or mistake, is conclusive on the parties, is subject to the general rule that a conveyance by the insured of the insured property ordinarily terminates the policy, because if the vendor retains no interest in the property he suffers no loss by its destruction. And if the vendor of the insured property retains an interest therein, the extent of such interest measures the extent of his loss. Regardless of whether the so-called valued policy law applies to other than fire insurance (a question not determined in this case), recovery under a tornado policy containing no provision for forfeiture for change in interest of the insured should have been limited to his interest in the insured premises deeded by him to another in possession, although the value of the property destroyed exceeded the amount of the policy coverage thereon. Such interest of the insured was only the amount of a vendor's lien to the extent of the value of other premises orally agreed to be but in fact not conveyed to the insured as part consideration for his deed of the insured premises, such oral agreement being void and not subject to specific performance because the insured at the time of the destruction of the

insured property had not been placed in possession of such other premises. *Wohlt v. Farmers Home H., T. & C. Ins. Co.*, 206 W 35, 238 NW 809.

Valued policy law controls over subsequently enacted standard fire policy law limiting damages to actual cash value of property at time of loss being an exception thereto. *Fox v. Milwaukee M. Ins. Co.*, 210 W 213, 246 NW 511.

Valued policy law applied where fire policy merely provided that insurer should not be liable for greater proportion of loss than amount insured should bear to whole insurance covering property. *Ciokewicz v. Lynn M. F. Ins. Co.*, 212 W 44, 248 NW 778.

Under standard statutory fire policy, insured held entitled to recover as for "total destruction", where building after partial destruction by fire was ordered destroyed pursuant to ordinance, though damage to building amounted to only 66 per cent. *City of New York F. Ins. Co. v. Chapman*, 76 F (2d) 76.

Where a building after partial fire destruction is ordered destroyed under a fire ordinance, the insurer's liability is not determined by the actual fire loss but is measured by the face value of the policy as for total fire destruction. *New Hampshire Fire Ins. Co. v. Murray*, 105 F. (2d) 212.

This section is applicable where building is totally destroyed by fire and there are two or more fire insurance policies covering such property, regardless of whether several insurance companies had knowledge of existence of other policies. 21 Atty. Gen. 634.

203.215 [Renumbered section 203.11 by 1933 c. 487 s. 92]

203.22 Coinsurance clauses. Except as otherwise provided by law, no fire insurance company shall issue any policy in this state containing any provision limiting the amount to be paid in case of loss below the actual cash value of the property, if within the amount for which the premium is paid, unless, at the option of the insured, a reduced rate shall be given for the use of a coinsurance clause made a part of the policy. Any company may, by so providing in the policy, distribute the total insurance in the manner and upon as many items as specified therein, or limit the amount recoverable upon any single item, article or animal to an amount not exceeding the cost thereof, or to an amount specified in the policy. Any company, officer or agent violating any provision of this section shall upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$500 and the license of such agent and company may be suspended for a period not exceeding one year. [1933 c. 149; 1933 c. 487 s. 100; 1943 c. 327]

Note: This section and 201.20 are independent of each other, 201.20 providing for carrying of portion of risk by insured and

this section for sharing of loss, and are not in conflict. 20 Atty. Gen. 605.

203.23 Combinations to establish rates. No fire, fire and marine, or marine and inland insurance company or its agent shall enter into any agreement, combination or compact for the purpose of establishing and maintaining rates; except such agreements as are authorized by statutes, or such as may be filed with and approved by the commissioner. Such approval may be withdrawn at any time. [1933 c. 487 s. 101]

203.24 Adjusters of insurance. (1) No person, except an agent holding a certificate of authority under section 209.04, shall make any adjustment of loss under an insurance policy covering hazards described in subsections (1), (2), (11), (12), (14) and (15) of section 201.04, unless he shall hold a certificate under this section.

(2) A certificate of authority as a fire insurance adjuster, expiring January thirty-first, following, may be issued by the commissioner to any person filing an application on a prescribed form and upon the payment of a license fee of one dollar.

(3) Such certificate shall be revoked by the commissioner, if after due investigation and hearing, he determines that the holder has violated the insurance law. No person whose certificate is revoked shall be granted another certificate within one year thereafter, nor shall he, until again so authorized, act as employe or participate in the pay of any fire insurance adjuster.

(4) A person does not violate this section by making his first adjustment during a license year prior to obtaining such certificate; provided, that he shall, within two days after entering upon such adjustment, make application therefor, and shall in all other respects comply with this section.

(5) Upon the completion of each adjustment, a report thereof shall be made and signed by each adjuster participating therein and by the insured or someone authorized thereto by him, and shall be filed with the state fire marshal and a duplicate thereof shall be filed with the chief of the fire department, if any, provided that reports of adjustment under subsection (15) of section 201.04 need not be filed unless the adjustment involves a fire loss, and then only as to such fire loss.

(6) No loss shall be paid unless the report of the adjustment signed by the adjuster shall show that the report and duplicates required by this section have been filed.

(7) The deposit of such report in the mails, properly sealed, addressed and postpaid, shall be a sufficient filing.

(8) This section shall apply to all persons who act in the capacity specified in subsection (1) for any insurance company or insured and to all persons who act as advisors to or adjusters for the insured for compensation in case of loss by fire, excepting attorneys acting in the ordinary relation of attorney and client.

(9) No compensation which shall be based on the excess of recovery over a stipulated sum, or on a percentage upon the amount of recovery in excess of five per cent of the amount of such recovery, plus actual transportation charges and hotel bills, shall be paid for the services of any fire insurance adjuster, and any contract for compensation in violation of this subsection shall be void.

(10) Subsection (1) shall not apply to adjusters for town mutual companies. The reports of adjustments may be made in such form and at such times as are prescribed by the commissioner.

(11) Any person violating this section shall be fined not more than five hundred dollars or imprisoned not exceeding six months. [1933 c. 236 s. 2; 1933 c. 487 s. 102; 1933 c. 489 s. 9; 1937 c. 235]

Note: In pursuing the business of adjuster of losses when employed by an insurance company, a layman may investigate the facts of any loss, either himself or through his employes, may obtain written statements and photographs, and may appraise a loss or damages and if authorized by his employer he may obtain reports or estimates of damage to property or the extent of personal injuries from experts, and he may report all facts so obtained to his employer, and may comment on the facts found, but he may not advise his employer as to its liability or render advice as to legal rights to a claimant without thereby engaging in the "practice of law." State ex rel. Junior Ass'n of Milwaukee Bar v. Rice, 236 W 38, 294 NW 550.

203.27 [Renumbered section 209.12 by 1933 c. 487 s. 254]

203.28 Fire companies, domestic; risks; sprinkler leakage; explosion; steam boiler excepted. Any corporation organized under the laws of this state for the insurance of property against loss or damage by fire may also insure the same classes of property, subject to the limitations prescribed by the law under which it was organized or is governed as to the amount of any single risk, against loss or damage by lightning, hail, windstorms, tornadoes, cyclones, hurricanes, earthquake, bombardment, invasion, insurrection, riot, civil war, military or usurped power, leakage of sprinklers and sprinkler systems, installed or maintained for the purpose of protection against fire and by explosions, whether fire ensues or not, including insurance upon automobiles and vehicles and the accessories and other property transported upon and used in connection therewith against loss by collision and against loss by legal liability for damage to property resulting from the maintenance and use of such automobiles or vehicles and against loss by burglary or theft or both and against any risk mentioned in subsection (1), (2), (5) or (10) of section 201.04 which said company may assume under its license; provided the same shall be clearly expressed in the policy, but nothing herein shall be construed to empower such companies to insure against loss or damage to persons or property resulting from explosions of steam boilers. [1933 c. 487 s. 103]

203.29 Classification of directors. Any fire insurance company organized under any special law of this state may classify its directors so that a proportionate number of them shall hold for one, two and three years respectively. [1933 c. 487 s. 104]

203.30 Liability of directors of mutual companies. The directors of every mutual fire insurance corporation shall be personally liable for all dues owing and assessments made on policies written upon property in any other state, territory or foreign country in which the corporation has not been duly admitted to do business and wherein such policies have been issued in violation of the law of such state, territory or foreign country; provided, this section shall not apply to church mutual insurance companies. [1933 c. 487 s. 105]

203.31 Assessment by foreign company. Every foreign mutual fire insurance company licensed in this state shall, immediately after making an assessment upon any of its members herein, notify the commissioner thereof and accompany such notice with a statement of the condition of the company, setting forth in particular the facts showing the

necessity for each assessment. No company shall make or increase any such assessment because of its inability to collect assessments from its members in states or territories in which its policies were written in violation of the laws thereof. This section shall not apply to church mutual insurance companies. [1933 c. 487 s. 106]

203.32 Municipal grading. (1) The commissioner of insurance shall file in his office the uniform standard grading schedule of public fire protection for each city, village and town in this state.

(2) All municipalities in this state shall be graded and classified according to such uniform standard grading schedule. Any municipality aggrieved by its grading may file a complaint with the commissioner of insurance who, after investigation and a public hearing, may order such grading altered to conform to such standard grading schedule. [1931 c. 437; 1933 c. 487 s. 107]

203.33 Insurer to be member of actuarial bureau. Every insurer, except as specified in section 203.49, licensed to insure against direct or consequential loss by fire and lightning, windstorm and hail, except on growing crops, sprinkler leakage, and when written supplemental to or in combination with a policy covering direct or consequential fire loss by explosion, riot, civil commotion, damage to other kinds of property from aircraft and self-propelled vehicles, and smoke damage, shall be a member of an actuarial bureau. No such insurer shall be a member of more than one actuarial bureau for the purpose of writing insurance on the same class of risks. Every insurer, in its annual application for its license, shall specify each actuarial bureau or bureaus of which it is a member, and during the year shall give written notice to the commissioner as to any other actuarial bureau of which it shall become a member or from which it has withdrawn. [1931 c. 437; 1933 c. 487 s. 108; 1937 c. 200; 1941 c. 138]

Note: The statute relating to fire insurance rating is not applicable to marine insurance even though marine insurance is not specifically excepted from the provisions of the statute. But insurers cannot so expand and distort the concept of marine insurance as to modify the insurers' statutory obligation to schedule their fire insurance rates with the fire insurance rating bureau. The exception in favor of marine insurance as to insurance rating extends only to traditional forms of marine insurance. It does not extend to recently developed or unusual types of coverage bearing close resemblance to fire insurance. *Northwestern Nat. Ins. Co. v. Mortenson*, 230 W 377, 284 NW 13.

203.34 Actuarial bureau; organization, expenses, name, agreements prohibited. Actuarial bureaus may be organized by 5 or more insurers for the purpose of inspection, rating risks, making underwriting rules, fire prevention rules, fire protection rules, auditing rates and forms, tabulating experience and such other duties and activities as are usually performed by actuarial or inspection bureaus. No insurer shall enter into any agreement with any actuarial bureau or any other insurer which will have the effect of prohibiting the filing of a deviation under section 203.41. An actuarial bureau shall consist of 5 or more insurers and shall admit to membership on an equal basis any authorized insurer. Such bureaus shall have their offices in Wisconsin. The expenses of any such bureau shall be borne by the members thereof in proportion to the direct premiums received during the year from business written on property in this state, less return premiums and returns on dividends to policyholders on mutual or participating policies. A reasonable annual membership fee may be charged. The name of any such bureau shall be approved by the commissioner and shall in no way indicate that it is an official state bureau. Each member shall be entitled to one vote. Each bureau shall annually elect a managing committee which shall direct and conduct the business of the bureau, and each member of the managing committee shall hold office until the next annual meeting and until a successor is chosen. If there are any participating insurers in any bureau, said participating insurers shall be entitled to at least one member of the managing committee. If there are as many as 8 persons on the managing committee, at least 2 shall be chosen by participating insurers in said bureau. Any member of said managing committee may, in case of disability, act by proxy. Such committee shall hold a meeting at least once a year in the city where the actuarial bureau has its office. No meeting of the managing committee shall be held without reasonable notice to each member of the committee. [1931 c. 437; 1933 c. 487 s. 109; 1941 c. 115]

203.35 Actuarial bureaus, license, organization, filing information, examination. (1) Each actuarial bureau shall annually procure from the commissioner a license to conduct its business. The license year shall be from February first to January thirty-first succeeding. Each bureau shall pay to the state, through the commissioner, an annual license fee of one hundred dollars, such fee to be paid at the time of filing application for license. The commissioner shall prescribe blanks and make needed regulations governing the licensing of bureaus. Every actuarial bureau shall file with the commissioner its articles of organization, by-laws, rules and regulations governing its members, agreements

and understandings governing its members, and shall promptly file written answers to any inquiry of the commissioner with reference to its organization, maintenance, operation, or any matter connected with its transactions.

(2) The commissioner shall have the power to examine any such actuarial bureau as often as he deems it expedient to do so, and a report of such examination shall be filed in his office. The expenses of examining a bureau shall be paid by the bureau. [1931 c. 437; 1933 c. 487 s. 110]

203.36 Rating schedules and underwriting rules to be filed. (1) A copy of all rating schedules, forms and underwriting rules promulgated or used by any actuarial bureau shall be filed with the commissioner of insurance except special forms need not be filed unless so ordered by the commissioner. The rating schedules shall include the basis rate and charges and credits on each schedule of rates including fire grading classification.

(2) Any clause attached to a policy of any insurer subject to sections 203.32 to 203.495 which permits an increase of a hazard or extension of coverage not contemplated in the bureau rate in effect for such risk, shall be charged for at a reasonable rate fixed by the actuarial bureau. [1931 c. 437; 1933 c. 487 s. 111; 1937 c. 208]

203.37 Rates and rules to be reasonable. (1) All schedules of rates, forms and all underwriting rules promulgated or used by any actuarial bureau shall be reasonable, fair to the insured and the insuring public, and shall not discriminate unfairly between risks of essentially the same hazard and regional classification. Regional classification shall be reasonable, and no regional classification shall be made unless it includes at least ten adjoining and adjacent counties in this state and is first approved by the commissioner of insurance. Justification of any rating schedule, forms or underwriting rule shall rest with the actuarial bureau or insurers as the case may be.

(2) The terms "reasonable rate, regulation or rule," shall apply to the business as a whole and all information available to the commissioner shall be considered. [1931 c. 437; 1933 c. 487 s. 112; 1937 c. 208]

203.38 Changes in basic rates and rules; public hearings. When any general change in basis rates of rating schedules, forms or underwriting rules is filed, the commissioner shall immediately notify the public and every insurance company subject to sections 203.32 to 203.495 of the intent, purport and effect of such proposed changes. Upon his own motion or at the request of any interested party, a public hearing or hearings shall be held not less than ten days after any change has been filed. The commissioner shall either approve or issue an order of disapproval not less than three days after the termination of such hearings; provided, that if no public hearing be so held or such change disapproved, the same shall become effective ten days after the filing thereof. No rate, rating schedule, form or rule disapproved by the commissioner shall thereafter be used by any actuarial bureau. [1931 c. 437; 1933 c. 487 s. 113; 1937 c. 208]

203.39 Commissioner to review and order changes. The commissioner of insurance upon verified complaint of any person having a direct financial interest or any political subdivision of the state, shall, or upon his own motion, may review any rate, underwriting rule or form, and he shall, after a hearing, order a change in any rate or disapprove any underwriting rule if he finds such rate or rule to be unreasonable, unfair to the insured or the insuring public, or unfairly discriminatory. The hearing before the commissioner shall be upon reasonable notice to all interested parties, provided that the hearing upon complaints shall be within thirty days after such complaint has been filed. Any complaint to the commissioner shall be sufficient to enable the commissioner to determine whether there is probable cause therefor, and a copy thereof shall accompany the notice of hearing. No order shall be effective until such hearing has been had, and shall be issued within ten days after the termination of the hearing. The pendency of a review of any order of the commissioner authorized in section 200.11, or of court proceedings shall suspend such order, but in the event of final determination against any insurer, any overcharge made during the pendency of such proceedings shall be refunded. The burden of proof in any court proceeding shall rest upon the party, insurer or bureau appealing from any order of the commissioner. [1931 c. 437; 1933 c. 487 s. 114; 1937 c. 208]

203.40 Commissioner upon complaint to order re-rating. The commissioner shall have power, upon the written complaint of any policyholder having a direct financial interest, or upon his own motion, to order the re-rating of any risk or class of risk at any time. If he shall find that any rate was not properly made according to the filed schedules or that the survey did not include all of the proper charges and credits, he shall immediately order the corrected rate to be put into effect. For the discharge of his duties under this section the commissioner shall employ a qualified rater in his department. [1931 c. 437; 1933 c. 487 s. 115]

203.41 Deviations from any bureau rates. Any insurer may file a deviation upon any class of risk from the rates or any underwriting rule established by the actuarial bureau

of which it is a member. Every insurer who determines to file any deviation shall at least five days before its effective date, file with the actuarial bureau of which it is a member and the commissioner, a copy of the deviation showing such variation and the date upon which it is to be effective. Any deviation of a rate shall be by a percentage increase or decrease if on specifically rated risks, and in all cases, including specifically rated risks and others, the deviation shall be reasonable and uniform in its application to all risks of the same class and regional classification, and unless a change is authorized by the commissioner of insurance, shall be effective for at least one year. [1931 c. 437; 1933 c. 487 s. 116]

203.42 Filings to be observed. All rates, forms and underwriting rules promulgated by any actuarial bureau or insurer, shall be filed with the commissioner and no insurer or its agent shall intentionally charge a different rate or use a different underwriting rule or form than that which has been filed with the commissioner, either directly, or by an actuarial bureau of which such insurer is a member. [1931 c. 437; 1933 c. 487 s. 117; 1937 c. 208]

203.43 Daily reports to be audited. All of the writings, indorsements thereto, and cancellations of insurers subject to sections 203.32 to 203.495 upon property located in this state, shall immediately be reported to the actuarial bureau of which such insurer is a member. Any violation by an insurer or its agent of the filings made by it, or on its behalf, shall be brought to the attention of the agent and the insurer writing such business, with the direction that the violation be corrected within a period not exceeding thirty days, and satisfactory proof of correction given to said actuarial bureau. Any violation not corrected and reported to the actuarial bureau, within the time required by it, shall be reported to the commissioner. The commissioner shall within ten days after having received notice of such violation, issue an order requiring the agent and insurer to make the correction. [1931 c. 437; 1933 c. 487 s. 118]

203.44 Survey of risks; copy to owner. Every risk specifically rated upon schedule by a bureau or insurer, shall be inspected, and a written survey of such risk shall be made which shall be filed in its office. Such survey shall show the basis rate and also the charges and credits. A copy of such survey or rate make-up shall be furnished the owner of property upon request. Rates for insurance upon all property rated upon a flat rate basis, shall also be filed in such office. [1931 c. 437; 1933 c. 487 s. 119]

203.45 Classification of risks; observance, deviation. No change in such classification shall be made by the commissioner until after conference with the managing committees of the actuarial bureaus. Each actuarial bureau shall classify each risk written according to such classification including the standard fire protection grading schedule applicable thereto. Thereafter, every bureau shall stamp upon the daily report of each policy the classification of the risks covered thereby according to such classification and grading. Every insurer shall keep a record of the total insurance written and the gross premiums received for direct insurance, less return premiums and cancellations according to such classification and grading. Business written at a deviation from rates promulgated by an actuarial bureau shall be resolved into premiums based on actuarial bureau rates. There shall also be compiled by every insurer a record of the actual losses incurred by such insurer according to such classification and grading. Annually, before April first, every insurer shall file with the commissioner and shall also file, at its option, with the actuarial bureau of which it is a member or with a common agency approved by the commissioner and representative of either mutual or stock insurance companies, its Wisconsin underwriting experience in accordance with the classification and grading herein provided. The experience filed with the common agency selected shall be consolidated by such agency and a copy of the consolidated result shall be filed with the actuarial bureau and with the commissioner. Provided, that in the event of a general investigation of rates, such insurers shall, if directed by the commissioner, file their individual underwriting experience with such actuarial bureau. Such data shall be kept and reports made in such manner and on such forms as may be prescribed and furnished by the commissioner of insurance. The details of the underwriting experience of individual insurers shall not be made public but the commissioner in his annual report shall include a summary of all such classified underwriting experience. [1931 c. 437; 1933 c. 487 s. 4, 120; 1937 c. 69; 1939 c. 295]

203.46 Present records to be available, present bureaus authorized. (1) The commissioner may require any actuarial bureau or insurer, to furnish him with information relative to its rules, regulations, rates, or underwriting experiences in existence at the time this section takes effect.

(2) Actuarial or rating bureaus organized and operating under the provisions of former sections 203.32 to 203.49 may operate under the provisions of the new sections 203.32 to 203.495 subject, however, to all of the provisions of these new sections.

(3) All municipal grading rules, rates, and regulations in force at the time of the taking effect of this section, which are not in conflict with sections 203.32 to 203.495, shall remain in force until changed. [1931 c. 437; 1933 c. 487 s. 121]

203.47 [Repealed by 1933 c. 236 s. 1; 1933 c. 489 s. 2]

203.48 **Penalty for violation.** Any insurer, actuarial bureau, agent, or other representative of any insurer or actuarial bureau, failing to comply with, or guilty of a violation of any of the provisions of sections 203.32 to 203.495, or of any order of the commissioner made hereunder, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars. In addition thereto, the license of any insurer, actuarial bureau, or agent, guilty of such violation, may be revoked or suspended, by the commissioner. [1931 c. 437; 1933 c. 487 s. 123]

203.49 **Exemptions.** The provisions of sections 203.32 to 203.495 shall not apply to town mutual companies, except as otherwise provided by subsection (2) of section 202.06, nor to domestic mutual cyclone insurance companies, nor to farm risks written in this state by any insurer, nor to contracts for automobile insurance, nor to the rolling stock of railroads or property in transit while in the possession of railroad companies or other common carriers, nor on the property of such common carriers used or employed by them in their business of carrying freight, merchandise or passengers. [1931 c. 437; 1933 c. 487 s. 124; 1935 c. 368; 1939 c. 320; 1941 c. 115]

203.495 **Separability of provisions.** If any provision of sections 203.32 to 203.495, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons, or circumstances, shall not be affected thereby. Should section 203.37 be held unconstitutional section 203.39 of the statutes of 1929 shall remain in effect as though not repealed, and if section 203.39 be held unconstitutional, section 203.42 of the statutes of 1929 shall remain in effect as though not repealed. [1931 c. 437; 1933 c. 487 s. 124a]

203.50 [Subsections (1) and (2) repealed by 1933 c. 487 s. 125; subsections (3) and (4) renumbered section 209.13 by 1933 c. 487 s. 255]

203.52 **Report reinsurance; penalty.** Every fire insurance company shall annually and at such other times as the commissioner may require report to him in such form and detail as he may prescribe all reinsurance contracted by it upon property in this state, or covering any risk or liability upon property so located, such report to be verified by the oath of its president and secretary, if a company of one of the United States, and, if of a foreign country, by the oath of its managers in the United States, as to such reinsurance effected through its office in the United States, and by the oath of its president and secretary or by officers corresponding thereto at its home office, as to reinsurance effected through the foreign office. [Stats. 1931 s. 201.45; 1933 c. 487 s. 126]

203.53 **Penalties; nonpayment of judgment.** Any insurance company wilfully violating or failing to comply with any of the provisions of sections 203.52 to 203.54, shall forfeit five hundred dollars for each violation. Any insurance company which shall fail for thirty days after judgment in any action for such forfeiture to pay such judgment shall have its license revoked, and such company shall not be relicensed for at least one year from the date thereof, nor until it shall have paid such judgment. [Stats. 1931 s. 201.46; 1933 c. 487 s. 127]

203.54 **Unauthorized risks; duty of commissioner.** Any person who shall solicit or place insurance in an unlicensed fire insurance company shall, in the event of the failure of such company to pay any claim or loss within the policy issued, be liable to the insured for the amount thereof pursuant to the policy; and his license shall be revoked for a period of not less than ninety days, and shall not be permitted to do business here until all liability for such violation shall be discharged and the provisions for the admission of foreign fire insurance companies be complied with. Whenever said commissioner shall receive notice of the violation of this section he shall forthwith make an inspection of the books and records of such agent, and his refusing to permit such inspection shall be a violation of this section, and such commissioner shall revoke his license. [Stats. 1931 s. 201.47; 1933 c. 487 s. 128]

203.55 **Insurance in unlicensed companies; agents.** (1) Before any insurance shall be procured in an unlicensed company the agent shall make an affidavit, which shall be promptly filed with the commissioner, that he is, after diligent effort, unable to procure the amount of insurance required to protect the property described in said affidavit from companies in this state.

(2) The insured may in writing relieve the agent from the personal liability imposed by section 201.44, which release shall be good for one year.

(3) The agent procuring policies in any unlicensed company shall keep a separate account thereof, open at all times to the inspection of the commissioner, showing the

company's name; the amount of such insurance; the gross premiums thereon; the return premiums on cancellations; date of the policy; the term thereof; the form of policy; and separately, the cities, towns and villages in which the insured property is located.

(4) Such agent shall, before the first day of February in each year, make a report to the commissioner for the preceding calendar year on the form prescribed by him, of the facts required by subsection (3), and pay to the commissioner the state tax provided by section 76.30.

(5) Such agent shall execute and deliver to the commissioner a bond in the penal sum of one thousand dollars, with such sureties as the commissioner shall approve, conditioned that the agent will comply with all the requirements of this section.

(6) In default of the payment of said tax, the commissioner may sue for the same.

(7) Any violation of this section shall subject the agent to a revocation of his license. [Stats. 1931 s. 201.49; 1933 c. 487 s. 4, 129]

Note: This section relates only to fire insurance. 31 Atty. Gen. 253.