CHAPTER 612

TOWN MUTUALS

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Cross−reference: See definitions in ss. 600.03, 610.01 and 628.02.
Cross−reference: See also ch. Ins 13, Wis. adm. code.
NOTE: Chapter 22, laws of 1973, which created this chapter, contains explanatory notes.

612.01 Purposes, scope, interpretation and definitions. (1) PURPOSES. The purposes of this chapter are:

(a) To preserve and encourage cooperative low−cost insurance;

(b) To establish a framework in which mutuality in its true sense can be preserved, and small mutual corporations can be kept viable;

(c) To preserve and strengthen the interest of the members in and their control of town mutuals;

(d) To enable town mutuals to satisfy as many of the essential insurance needs of their members as is consistent with the other objectives of chs. 600 to 646; and

(e) To provide financial guaranties sufficient to ensure the solidity of town mutuals, and to encourage them to maintain adequate surpluses.

(2) SCOPE. Except as otherwise provided, this chapter applies to all corporations organized under this chapter.

(3) INTERPRETATION. Whenever a section of ch. 611 is applied to town mutuals by this chapter, the portion to be applied is that portion applicable to a mutual under ch. 611.

(4) APPLICABLE DEFINITIONS. The definitions in ss. 181.0103 (3) and (18), 600.03 and 610.01 (1), (2) and (4) apply to town mutuals.

History: 1973 c. 22; 1977 c. 339; 1979 c. 89, 102, 177; 1983 a. 189 s. 329 (22); 1983 a. 215; 1985 a. 189; 1997 a. 79.

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

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

(a) The name of the corporation;

(b) The address of the principal office, which may be designated as the residence or business office of the holder of a specified corporate office;

(c) The territory within which the corporation plans to operate which may not exceed 8 contiguous counties, except that the commissioner may authorize a broader territory aggregating no more than 16 contiguous counties;

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The proposed compensation of directors and officers;

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

1. The types of insurance to be written;

2. The policy forms to be used initially;

3. The proposed methods for soliciting members;

4. The proposed methods for establishing premium rates and classifications for assessments;

5. Any proposed reinsurance arrangements; and

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

(5) INITIAL SURPLUS. (a) *Requirement.* The incorporating members shall pay in or procure an initial surplus in an amount at least as large as that specified by the commissioner. The amount specified by the commissioner shall be sufficient to permit the

town mutual to commence business and to protect the members in case initial losses are unexpectedly high, but may not be less than $100,000 nor more than $200,000. The surplus may be provided by gifts or by contribution notes bearing interest at a rate approved by the commissioner and repayable under par. (c).

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

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

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

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

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

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

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

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

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

History: 1973 c. 22; 1979 c. 102 ss. 114, 236 (5), (7); 1985 a. 189; 2015 a. 90; 2015 a. 197 s. 51.

612.03 General powers and effect of unauthorized corporate acts. Sections 181.0302 (intro.), (1) to (8), (11) to (13), (18) and (19) and 181.0304 apply to town mutuals, except that references to "attorney general" shall be read as "commissioner". Section 181.0302 (7) is subject to s. 612.35.

History: 1973 c. 22; 1979 c. 110; 1983 a. 192; 1987 a. 13; 1997 a. 79.

612.04 Amendments of articles, bylaws and business plan. (1) RIGHT TO AMEND ARTICLES AND MAKE AND AMEND BYLAWS. Sections 181.0207 and 181.1001 apply to town mutuals. A town mutual may make and amend bylaws as provided by the articles or, in the absence of any such provision, in the same manner as the articles may be made or amended.

(2) APPROVAL REQUIRED. No change in the articles or bylaws or in the business plan is effective until approved by the commissioner, nor may a town mutual depart from its business plan except with the commissioner's approval. No change may be made inconsistent with s. 612.02 (2). Section 181.1008 applies to town mutuals.

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

(a) Contrary to law; or

(b) Inconsistent with the interests of the members or of the public.

History: 1973 c. 22; 1977 c. 203; 1979 c. 102 ss. 115, 236 (5); 1997 a. 79.

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

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

History: 1973 c. 22; 1979 c. 102 s. 236 (13).

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

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

(b) *Special meetings.* Notice of special meetings shall be given to members at least 30 days prior to the date of the meeting, and shall state the proposed business to be brought before the meeting.

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

History: 1973 c. 22; 1997 a. 79.

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

(a) Election of directors;

(b) Amendment of articles;

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

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

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

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

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

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

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

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

History: 1973 c. 22; 1991 a. 316; 1997 a. 79.

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

(1m) INSIDE DIRECTORS. (a) Beginning 2 years after April 30, 2004, all of the following apply:

1. If a town mutual has fewer than 9 directors, no more than one director may be an employee or representative of the town mutual.

2. Employees and representatives of a town mutual may not constitute a majority of its board.

(b) Notwithstanding par. (a), the commissioner may allow a town mutual an extension of up to one year to come into compliance with the requirements under par. (a).

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

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

(4) ADJUSTMENT COMMITTEE. The directors may annually appoint from their own number an adjustment committee of at least 3 persons, to adjust or supervise the adjustment of losses under s. 612.53. If no adjustment committee is appointed, the entire board shall act as the adjustment committee to adjust or supervise the adjustment of losses under s. 612.53.

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

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

(b) *Officers.* Sections 181.0843 and 181.0844 apply to town mutuals.

History: 1973 c. 22; 1997 a. 79; 2003 a. 261; 2015 a. 90.

612.14 Reports. An officer or person designated by an officer of the company shall present to the annual meeting written reports showing the condition of the town mutual on the previous December 31 and its activity during the preceding calendar year, including any information required to be presented by the articles or bylaws or by the commissioner. The officer or person designated by an officer shall include in the reports a sufficient level of information to reasonably inform members about the financial condition of the town mutual.

History: 1973 c. 22; 2015 a. 90.

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

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

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

(3) REMOVAL BY COMMISSIONER. If the commissioner finds, after a hearing, that a director or officer is for any reason unqualified to serve, is incompetent or untrustworthy, or has willfully violated chs. 600 to 646, a rule promulgated under s. 601.41 (3) or an order issued under s. 601.41 (4), and that thereby the interests of members or of the public are endangered, the commissioner shall by order remove the director or officer.

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

History: 1973 c. 22; 1979 c. 89; 1979 c. 102 s. 236 (13); 1991 a. 316.

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

History: 1973 c. 22.

612.18 Transactions with affiliates and in which directors and others are interested. Sections 611.60 and 611.61 apply to town mutuals.

History: 1973 c. 22; 1979 c. 102.

612.21 Merger of town mutuals. (1) CONDITIONS FOR MERGER. Two or more town mutuals authorized to operate in all or part of the same or in contiguous territories not exceeding 16 counties altogether may merge into one of the constituent town mutuals, or into a new town mutual, under the procedure provided in this section.

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

(a) The reasons for and the purposes of the proposed action;

(b) The proposed terms, conditions and procedures for and estimated expenses of implementing the merger;

(c) The proposed name of the surviving or new town mutual and the location of its principal office; and

(d) The proposed articles and bylaws for the surviving or new town mutual.

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

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

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

(7) CERTIFICATE OF AUTHORITY. If the requirements of the law are met, the commissioner shall issue a certificate of authority to the surviving town mutual. Thereupon the nonsurviving town mutuals shall cease their legal existence. The surviving town mutual shall have all the assets and be liable for all of the obligations of each of the participating town mutuals.

History: 1973 c. 22; 1979 c. 102; 1985 a. 189; 1991 a. 316; 1997 a. 79.

612.22 Merger of town mutuals and mutual insurance corporations. (1) CONDITIONS FOR MERGER. One or more town mutuals may merge with a single domestic mutual under ch. 611. If the domestic mutual is nonassessable, the surviving corporation shall be a mutual under ch. 611. If the domestic mutual is assessable, the surviving corporation may be either a mutual under ch. 611 or a town mutual under this chapter.

(2) PLAN OF MERGER. The board of each participating corporation shall adopt the same plan of merger under s. 181.1101 (2), by resolution stating:

(a) The reasons for and the purposes of the proposed action;

(b) The proposed terms, conditions and procedures for and estimated expenses of implementing the merger;

(c) The proposed name of the surviving or new corporation and the location of its principal office; and

(d) The proposed articles and bylaws for the surviving or new corporation.

(3) APPROVAL BY COMMISSIONER. (a) Each of the participating corporations shall file with the commissioner for approval a copy of the resolution and any explanatory material proposed to be issued to the members who have the right to vote on the merger under sub. (4), together with so much of the information under s. 611.13 (2) or 612.02 (4), whichever is appropriate, for the surviving or new corporation as the commissioner reasonably requires. The commissioner shall approve the plan unless he or she finds, after a hearing, that it would be contrary to the law, or that the surviving or new corporation would not satisfy the requirements for a certificate of authority under s. 611.20 or 612.02 (6), whichever is appropriate, or that the plan would be contrary to the interest of insureds or of the public.

(b) If the surviving corporation will be a town mutual, the plan filed with the commissioner under par. (a) shall include a time schedule for bringing the surviving corporation into compliance with this chapter. The commissioner may approve a reasonable time schedule that does not exceed 3 years.

(4) APPROVAL BY MEMBERS OF THE MUTUALS. After being approved by the commissioner under sub. (3), the plan shall be submitted for approval to the members of the participating town mutual or mutuals and to the members of the participating domestic mutual if the domestic mutual is assessable. The members of each participating mutual who have the right to vote on the merger shall vote separately.

(6) REPORTS TO COMMISSIONER. Each participating mutual, the members of which have the right to vote under sub. (4), shall file with the commissioner a copy of the resolution adopted under sub. (4), stating the number of members entitled to vote, the number of members voting, and the number of votes cast in favor of the plan, stating separately in each case the mail votes and the votes cast in person.

(7) CERTIFICATE OF AUTHORITY. If the requirements of the law are met, the commissioner shall issue a certificate of authority to the surviving mutual. Thereupon the nonsurviving corporations shall cease their legal existence. The surviving mutual shall have all the assets and be liable for all of the obligations of each of the participating corporations.

History: 1973 c. 22; 1979 c. 102; 1991 a. 316; 1997 a. 79; 2003 a. 261; 2009 a. 342.

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

(1) CONVERSION PLAN. The board of each participating town mutual shall adopt the same plan of conversion by resolution stating:

(a) The reasons for and the purposes of the proposed action;

(b) The proposed terms, conditions and procedures for and estimated expenses of implementing the conversion;

(c) The proposed name of the corporation; and

(d) The proposed articles and bylaws.

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

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

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

(5) REPORTS TO COMMISSIONER. Each town mutual shall file with the commissioner a copy of the resolution adopted under sub. (3), stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately in each case the mail votes and the votes cast in person. Any election of directors under sub. (4) shall also be reported to the commissioner.

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

History: 1973 c. 22; 1979 c. 102.

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

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

(3) DISAPPROVAL. The commissioner may, within the 30−day period or its extension, prohibit the proposed action if it is contrary to law or to the interests of insureds or the public or if it will make possible the circumvention of any of the requirements of chs. 600 to 646. The commissioner shall prohibit a transfer of all or substantially all of the business unless it is accompanied by a plan for voluntary dissolution under s. 612.25.

History: 1973 c. 22; 1977 c. 203 s. 103; 1979 c. 89.

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

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

(a) The reasons for the proposed action;

(b) The proposed terms, conditions and procedures for and estimated expenses of implementing the dissolution; and

(c) The financial condition of the town mutual, in such detail as the commissioner reasonably requires.

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

(3) APPROVAL BY MEMBERS AND COMMISSIONER. The plan shall thereupon be submitted to the members. If the members adopt the

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

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

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

History: 1973 c. 22; 1979 c. 102 ss. 120, 236 (6).

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

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

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

(2) LIMITATIONS ON PROPERTY INSURANCE. (a) *Windstorm and hail insurance.* 1. No town mutual may insure a member against loss to growing crops by windstorm or hail.

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

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

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

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

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

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

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

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

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

(a) Life insurance and annuities;

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

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

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

(e) Worker's compensation insurance;

(f) Elevator liability or steam boiler liability insurance;

(g) Ocean marine insurance;

(h) Inland marine insurance except as a supplementary coverage to property in a fixed location insured under sub. (1);

(i) Fidelity or surety insurance;

(j) Credit insurance;

(k) Mortgage guaranty insurance;

(L) Title insurance;

(m) Assuming reinsurance; or

(n) Loss, damage or liability caused by nuclear reaction or nuclear radiation or radioactive contamination, whether directly or indirectly resulting from an insured peril under the policy.

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

History: 1973 c. 22; 1975 c. 147 s. 54; 1975 c. 372; 1979 c. 102 s. 236 (5), (13); 1979 c. 110 s. 60 (11); 2015 a. 90.

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

(1) REAL PROPERTY OUTSIDE TERRITORY. Town mutuals may insure real property and contents in villages and cities partially located in the specified territory, real property and contents in an immediately adjoining county owned by a member who has real property and contents insured by the town mutual within the specified territory, and real property and contents used exclusively by the member and his or her family for recreational purposes.

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

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

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

History: 1973 c. 22; 1979 c. 102 s. 236 (13); 1979 c. 110 s. 60 (11); 1979 c. 355; 1981 c. 218; 1985 a. 189; 2015 a. 90.

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

(2) REQUIRED REINSURANCE. (a) *Windstorm and hail insurance.* If a town mutual provides coverage against windstorm or hail, or other perils involving a similar potential for catastrophic

losses, which are designated by the commissioner by rule, it shall obtain reinsurance for each such risk or else stop−loss reinsurance with an insurer authorized to do such business in this state, to an extent or in an amount specified by the commissioner by rule. The commissioner may prescribe detailed requirements for such reinsurance by rule or by order.

(b) *Nonproperty insurance.* To the extent that a town mutual provides insurance under s. 612.31 (3), it shall obtain reinsurance of at least a 90 percent proportional share of each risk or it shall obtain excess of loss reinsurance with a retention in a similar dollar amount with an insurer authorized to do such business in this state, in either instance not to exceed $25,000 on each risk. The commissioner may permit a town mutual to retain a larger percentage or have a greater excess of loss retention level if he or she finds that the interests of the members will not be endangered thereby, or may require it to reinsure a larger percentage or obtain a lesser excess of loss retention level if he or she finds that the interests of the members make it advisable. The commissioner may by rule require other reinsurance.

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

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

1. That any claimant who could recover from the town mutual may, if the town mutual would be unable to fully satisfy its financial obligations to the claimant, recover from the town mutual, the reinsurer, or both, and that the claimant may recover from the reinsurer in the same way that he or she could recover from the town mutual but only in the amount for which the reinsurer is liable according to the terms of the reinsurance contract; and

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

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

History: 1973 c. 22; 1979 c. 102 ss. 121, 236 (5), (13); 1979 c. 110 s. 60 (11); 1985 a. 189; 2001 a. 65; 2015 a. 90.

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

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

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

History: 1973 c. 22; 1979 c. 102 s. 236 (5).

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

History: 1973 c. 22.

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

(2) REAL ESTATE. Section 620.23 (1) (c) does not apply to town mutuals. Except under s. 620.21 (2), no town mutual may own real estate that in the aggregate exceeds, in value measured at cost, one mill on the dollar of the insurance in force.

History: 1973 c. 22; 1977 c. 339.

Legislative Council Note, 1977: Sub. (2) continues in effect that portion of s. 201.24 (2) that applies to town mutuals. [Bill 258−S]

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

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

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

History: 1973 c. 22; 1975 c. 375; 1979 c. 102 s. 236 (5); 2007 a. 168.

612.52 Undertaking to pay premiums and assessments. An applicant for insurance shall sign an undertaking agreeing to pay the advance premiums for any insurance on the applicant's behalf and any assessment which may be levied in accordance with the terms of the policy, the articles, the bylaws, the statutes, and the reasonable expenses of collecting the assessment and any reasonable penalties for nonpayment. The undertaking may provide that for such collection the applicant shall waive any exemptions otherwise applicable to the property covered by the policy.

History: 1973 c. 22; 1979 c. 102; 1981 c. 218.

612.53 Loss adjustment. The commissioner may promulgate rules for loss adjustment procedures.

History: 1973 c. 22; 2015 a. 90.

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

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

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

(3) CLASSIFICATION. Assessments may be levied at the same rate on all members or according to a classification plan approved under s. 612.34 (2). Assessments not exceeding the annual premium of the terminated policy may also be levied on persons whose membership has terminated within 4 months before the assessment, to pay losses incurred before the end of the month of

termination of membership, to repay money borrowed to pay those losses and to pay other expenses.

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

(a) The rate of the assessment and the class of business or coverage to which it applies;

(b) The reason for the assessment;

(c) The amount to be paid by the individual person;

(d) The date on which the assessment is due;

(e) The person to whom payment is to be made; and

(f) The consequences of failure to pay, as provided in sub. (5).

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

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

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

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

History: 1973 c. 22; 1979 c. 102 s. 236 (13), (21); 1981 c. 218.

612.61 Licensing of agents. Persons soliciting insurance for town mutuals shall comply with s. 628.05.

History: 1973 c. 22; 1975 c. 371.

Legislative Council Note, 1975: Present s. 612.61 is replaced by s. 628.05, which is part of this act. The terms remain the same. It is preserved only as a cross reference to s. 628.05. [Bill 16−S]

612.70 Waiver of notice and informal action. Sections 181.0704, 181.0706, 181.0821 and 181.0823 apply to town mutuals. Section 181.0821 applies to a committee of the board except that references to "board" shall be read as "committee".

History: 1973 c. 22; 1997 a. 79.

612.81 Register of deeds. No town mutual need file any corporate documents with any register of deeds for corporation law or regulatory purposes. All such documents held by registers of deeds on May 24, 1973, may be disposed of under s. 59.43 (12) (b).

History: 1973 c. 22; 1995 a. 201.