

## CHAPTER 202.

## INSURANCE—TOWN MUTUALS.

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

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

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

## ARTICLES OF ORGANIZATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[202.03 Stats. 1935 repealed by 1937 c. 226]

**202.03 Merger or consolidation of town mutuals.** Any 2 or more town mutual insurance companies operating in the same or adjoining territories may merge into a single

corporation which may be one of said constituent corporations or may consolidate into a new town mutual corporation. To effect the merger or consolidation it shall be necessary:

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

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

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

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

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

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

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

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

**202.04 Directors; powers and duties; officers; meeting place.** (1) The directors shall annually choose from their number a president, a vice president, a secretary and treasurer. They shall keep a permanent record of their proceedings, together with the names and places of residences of all persons insured and the amount for which each is insured, which record shall be open for inspection of all members at such reasonable times as may be determined by the annual meeting.

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

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

[202.05 Stats. 1943 repealed by 1945 c. 63]

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

(2) They shall not insure any property other than dwellings (not exceeding 3-family occupancy and including therein other occupancies of a nonmanufacturing nature not occupying more than 25 per cent of the floor area of the dwelling) and outbuildings used in connection therewith and their contents; farm buildings and their contents; live stock; farm products and farming tools; implements, machinery and vehicles, but if authorized by an annual meeting they may insure in an amount not exceeding \$10,000 on any single risk, stores, schoolhouses, town and society halls, churches, country hotels, water mills, blacksmith shops, cheese factories, creameries, taverns, country restaurants, country social halls, country club houses, country garages, country oil stations, electrically or motor driven feed mills in the country, grain elevators located outside of cities, buildings, equipment, materials and supplies of rural electric co-operative associations, agricultural societies, fur farms (excluding fur-bearing animals), green houses, pea vineries, corn driers, country dairies, country locker plants, country hatcheries and broiler farms, apiaries, tourist cabins, fish shanties, and the contents of any such buildings; provided that in any insurance on risks located in incorporated villages or cities for which authorization by an annual meeting is required the class rate or rating plan shall be filed with and approved by the commissioner who may order that policies or other evidences of insurance, or the cancellation thereof, on such risks shall be audited in accordance with such filings in a manner acceptable to the commissioner.

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

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

(5) They may lend money on notes due in one year or less signed by 2 persons who shall each own real estate, worth the amount of the notes above exemptions, mortgages and other liens, located within their territory.

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

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

(1a) (a) When authorized by the board of directors (and by the members as provided in subdivision 4 of this paragraph as a prerequisite to insuring against windstorm and hail), such company may issue, as a rider to the standard town mutual policy, an endorsement for supplemental coverage against loss or damage caused by any of the following classifications of perils which perils, if insured against, shall be construed as being included in the terms fire and lightning wherever those terms appear in this chapter:

1. Smoke and smudge. Smoke and smudge.
2. Collision. Collision with falling or moving bodies or vehicles.
3. Riot, civil commotion and explosion. Riot, riot attending a strike, civil commotion and explosion.
4. Windstorm and hail. Windstorm and hail on property other than growing crops; provided, however, that as a condition precedent to engaging in the writing of windstorm and hail insurance the company shall: (a) have filed proof with the commissioner of insurance showing to his satisfaction that two-thirds of all members voting have voted in favor of authorizing the company to insure against the peril of windstorm and hail damage at a regular or special meeting of members, the written notice of which meeting to each

member shall have specified such authorization as one of the purposes of said meeting, and that a mail ballot was mailed to each member not less than 30 days prior to such meeting setting forth the exact question to be voted upon. A written vote received by mail from any absent member, and signed by him, shall be equivalent to a vote of the member so signing; (b) have procured a contract or contracts reinsuring at least 90 per cent of the liability assumed on any risk under this subdivision which such reinsurance contract shall be filed with and approved by the commissioner of insurance. Such reinsuring company shall either have and maintain a surplus of not less than \$100,000, or such reinsuring company shall have reinsurance contracts covering windstorm and hail risks on property other than growing crops with not less than 25 town mutual insurance companies operating in not less than 36 counties of this state.

(b) The company may use and attach to the standard town mutual policy the form commonly known as "EXTENDED COVERAGE ENDORSEMENT", provided coverage is granted against all of the perils specified in subsection (1) (a) and provided such company shall comply with all of the requirements contained in subsection (1) (a) 4. Unless coverage is granted against all of the perils specified under subsection (1) (a), the heading of the endorsement form for supplemental coverage shall read as follows: "SUPPLEMENTAL COVERAGE ENDORSEMENT".

(c) The board of directors may levy an additional assessment for coverages specified under subsection (1a) (a).

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

History: 1951 c. 588.

202.085 Standard town mutual policy. (1) The commissioner of insurance shall prepare and keep on file printed forms, sizes 8½ by 14 inches and 9 by 15½ inches, in blank of a policy of insurance containing the provisions, agreements and conditions specified in this section. Any company organized or operating under this chapter may at its option use either size. The following policy form is declared to be known as the "Standard Town Mutual Policy":

[First page of Policy]

STANDARD TOWN MUTUAL POLICY

No. .... Mutual Company

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

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

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO

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

.....  
and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED

AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for 5 days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

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

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

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

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

Attest: ...., Secretary.

....., President.

[Second page of policy]

- 1 **Concealment,** This entire policy shall be void if, whether  
 2 **fraud.** before or after a loss, the insured has wil-  
 3 fully concealed or misrepresented any ma-  
 4 terial fact or circumstance concerning this insurance or the  
 5 subject thereof, or the interest of the insured therein, or in case  
 6 of any fraud or false swearing by the insured relating thereto.  
 7 **Uninsurable** This policy shall not cover accounts, bills,  
 8 **and** currency, deeds, evidences of debt, money or  
 9 **excepted property.** securities; nor, unless specifically named  
 10 hereon in writing, bullion or manuscripts.  
 11 **Perils not** This Company shall not be liable for loss by  
 12 **included.** fire or other perils insured against in this  
 13 policy caused, directly or indirectly, by: (a)  
 14 enemy attack by armed forces, including action taken by mili-  
 15 tary, naval or air forces in resisting an actual or an immediately  
 16 impending enemy attack; (b) invasion; (c) insurrection; (d)  
 17 rebellion; (e) revolution; (f) civil war; (g) usurped power; (h)  
 18 order of any civil authority except acts of destruction at the time  
 19 of and for the purpose of preventing the spread of fire, provided  
 20 that such fire did not originate from any of the perils excluded  
 21 by this policy; (i) neglect of the insured to use all reasonable  
 22 means to save and preserve the property at and after a loss, or  
 23 when the property is endangered by fire in neighboring prem-  
 24 ises; (j) nor shall this Company be liable for loss by theft.  
 25 **Other insurance.** Other insurance may be prohibited or the  
 26 amount of insurance may be limited by en-  
 27 dorsement attached hereto.  
 28 **Conditions suspending or restricting insurance. Unless other-**  
 29 **wise provided in writing added hereto this Company shall not**  
 30 **be liable for loss occurring**  
 31 (a) while the hazard is increased by any means within the con-  
 32 trol or knowledge of the insured; or  
 33 (b) while a described building, whether intended for occupancy  
 34 by owner or tenant, is vacant or unoccupied beyond a period of  
 35 sixty consecutive days; or  
 36 (c) as a result of explosion or riot, unless fire ensue, and in  
 37 that event for loss by fire only.  
 38 **Other perils** Any other peril to be insured against or sub-  
 39 **or subjects.** ject of insurance to be covered in this policy  
 40 shall be by endorsement in writing hereon  
 41 or added hereto.  
 42 **Added provisions.** The extent of the application of insurance  
 43 under this policy and of the contribution to  
 44 be made by this Company in case of loss, and any other pro-  
 45 vision or agreement not inconsistent with the provisions of this  
 46 policy, may be provided for in writing added hereto, but no pro-

47 vision may be waived except such as by the terms of this policy  
48 is subject to change.

49 **Waiver** No permission affecting this insurance shall  
50 provisions. exist, or waiver of any provision be valid,  
51 unless granted herein or expressed in writing  
52 added hereto. No provision, stipulation or forfeiture shall be  
53 held to be waived by any requirement or proceeding on the part  
54 of this Company, relating to appraisal or to any examination  
55 provided for herein.

56 **Cancellation** This policy shall be cancelled at any time  
57 of policy. at the request of the insured, in which case  
58 this Company shall, upon demand and sur-  
59 render of this policy, refund the excess of paid premium above  
60 the customary short rates for the expired time. This pol-  
61 icy may be cancelled at any time by this Company by giving  
62 to the insured a five days' written notice of cancellation with  
63 or without tender of the excess of paid premium above the pro-  
64 rata premium for the expired time, which excess, if not ten-  
65 dered, shall be refunded on demand. Notice of cancellation shall  
66 state that said excess premium (if not tendered) will be re-  
67 funded on demand.

68 **Mortgagee** If loss hereunder is made payable, in whole  
69 interests and or in part, to a designated mortgagee not  
70 obligations. named herein as the insured, such interest  
71 in this policy may be cancelled by giving to  
72 such mortgagee a ten days' written notice  
73 of cancellation.

74 If the insured fails to render proof of loss such mortgagee, upon  
75 notice, shall render proof of loss in the form herein specified  
76 within sixty (60) days thereafter and shall be subject to the pro-  
77 visions hereof relating to appraisal and time of payment and of  
78 bringing suit. If this Company shall claim that no liability ex-  
79 isted as to the mortgagor or owner, it shall, to the extent of pay-  
80 ment of loss to the mortgagee, be subrogated to all the mort-  
81 gagee's rights of recovery, but without impairing mortgagee's  
82 right to sue; or it may pay off the mortgage debt and require  
83 an assignment thereof and of the mortgage. Other provisions  
84 relating to the interests and obligations of such mortgagee may  
85 be added hereto by agreement in writing.

86 **Pro rata liability.** This Company shall not be liable for a greater  
87 proportion of any loss than the amount  
88 hereby insured shall bear to the whole insurance covering the  
89 property against the peril involved, whether collectible or not.

90 **Requirements in** The insured shall give immediate written  
91 case loss occurs. notice to this Company of any loss, protect  
92 the property from further damage, forthwith  
93 separate the damaged and undamaged personal property, put  
94 it in the best possible order, furnish a complete inventory of  
95 the destroyed, damaged and undamaged property, showing in  
96 detail quantities, costs, actual cash value and amount of loss  
97 claimed; and within sixty days after the loss, unless such time  
98 is extended in writing by this Company, the insured shall render  
99 to this Company a proof of loss, signed and sworn to by the  
100 insured, stating the knowledge and belief of the insured as to  
101 the following: the time and origin of the loss, the interest of the  
102 insured and of all others in the property, the actual cash value of  
103 each item thereof and the amount of loss thereto, all encum-  
104 brances thereon, all other contracts of insurance, whether valid  
105 or not, covering any of said property, any changes in the title,  
106 use, occupation, location, possession or exposures of said prop-  
107 erty since the issuing of this policy, by whom and for what  
108 purpose any building herein described and the several parts  
109 thereof were occupied at the time of loss and whether or not it  
110 then stood on leased ground, and shall furnish a copy of all the  
111 descriptions and schedules in all policies and, if required, verified  
112 plans and specifications of any building, fixtures or machinery

113 destroyed or damaged. The insured, as often as may be reason-  
 114 ably required, shall exhibit to any person designated by this  
 115 Company all that remains of any property herein described, and  
 116 submit to examinations under oath by any person named by this  
 117 Company, and subscribe the same; and, as often as may be  
 118 reasonably required, shall produce for examination all books of  
 119 account, bills, invoices and other vouchers, or certified copies  
 120 thereof if originals be lost, at such reasonable time and place as  
 121 may be designated by this Company or its representative, and  
 122 shall permit extracts and copies thereof to be made.

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

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

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

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

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

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

#### CLAUSES

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

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

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



**Machinery, live stock and farm products off premises clause:** Any insurance under this policy on farm machinery, implements, tools, vehicles, live stock and farm products is extended to cover while on or temporarily off the premises.

[Third page of policy]

ARTICLES OF ORGANIZATION  
BY-LAWS

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

[Fourth page of policy]

ASSIGNMENT OF INTEREST BY INSURED

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

Dated ....., 19.... Signature of the Insured.  
NOTE—To secure mortgages, if desired, the policy should be made payable on its face to such mortgagee, as follows; Loss, if any, payable to John Doe, mortgagee.

CONSENT BY COMPANY TO ASSIGNMENT OF INTEREST

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

Dated at ....., Wis., ....., 19....  
..... INSURANCE COMPANY.  
By ....., Secretary

STANDARD TOWN MUTUAL POLICY

No.....
(Name of Company)
Assured .....
of .....
Amount Insured . . . . . \$.....
Premium . . . . . \$.....
Fees . . . . . \$.....
Expires ....., 19....
....., Agent

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

NOTICE

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

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

(2) No town mutual insurance company, its officers or agents, shall issue, use or deliver for use any insurance policy on property in this state, unless it shall conform as to all provisions, agreements and conditions of the standard town mutual policy as set forth in subsection (1). The name of the company shall, and its location or place of business and the date of its organization may at the option of the company be printed on the policies. There may be inserted in the space indicated therefor or added to the policy by agreement in writing thereon or by indorsement thereto descriptions and specifications by schedule or otherwise of the property covered. Appropriate forms of indorsements, whereby the interest in the property described in such policy shall be insured against one or more of the perils which the insurer issuing the policy is empowered to assume may be used in connection with the standard town mutual policy. Such form of indorsements attached or printed thereon may contain provisions and stipulations in-

consistent with the standard town mutual policy, provided that the fire and lightning portions thereof shall be in accord substantially with such standard town mutual policy. Subject to the approval of the commissioner, the first page of the standard town mutual policy may be rearranged as to all provisions thereof and to provide space for listing of rates and premiums for coverages insured thereunder or under indorsements attached or printed thereon.

**History:** 1951 c. 730.

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

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

#### UNDERTAKING

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

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

Witness . . . . .

Agent

Applicant

Every such application and undertaking shall be filed and kept by the secretary for a period of one year after the expiration of such policy.

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

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

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

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

To the Policyholders of the . . . . . Insurance Company.

#### TAKE NOTICE:

Pursuant to the provisions of section 202.11 of the statutes, the directors of the . . . . . Insurance Company on . . . . ., 19 . . . . ., levied an assessment of \$. . . . . on the policyholders of the company, being at the rate of . . . . . mills per dollar of insurance, and the said assessment is due and payable on or before . . . . ., 19 . . . . .

. . . . ., Secretary.

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

.... MUTUAL FIRE INSURANCE COMPANY

...., Wisconsin

...., 19...

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

...., Secretary.

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

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

(4) Every member who shall fail to pay his assessment within the time specified in the notice sent to him shall pay to such corporation a fine of 2 per cent of the amount of such assessment for each week or part thereof during which the same shall remain delinquent, and no payment shall be made by the company upon the policy of any member if at the time he shall suffer a loss he shall be in default and shall have failed to pay his assessment prior to the expiration of 30 days from the time limited in said notice.

Under (2) both the publication and the mailing of the notice are required. *Huen-ger v. Door County Mut. Ins. Co.* 253 W 95, 44 NW (2d) 915.

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

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

Insured's surrendering his town mutual fire policy with a demand that it be canceled on January 10th, constituted a cancellation of the policy. The company by letter of January 11th sought to have the insured reconsider his action but, instead of replying, he obtained a policy elsewhere for the same coverage. The company was not estopped from setting up that the surrendered policy had been canceled and was not in effect when a loss occurred on February 12th. *Waller v. Door County Mut. Ins. Co.* 256 W 323, 41 NW (2d) 211.

Clause in fire policy, allowing the insured to apply 10 per cent of the amount of the policy on "private structures" appertaining to the house, was one relating to coverage. Since there was no evidence of specific intent to cover the insured's garage, knowledge of the insurer's agent, at the time the policy was issued, of the insured's use of the garage as an auto-repair shop open to the public, did not operate as a waiver of the insurer's right to claim after the burning of the garage that by reason of such use the garage was not a "private structure" and hence was not covered by the policy. (*Fountain v. Importers & Exporters Ins. Co.* 214 W 556, distinguished.) *Ziebarth v. Fidelity & Guaranty Fire Corp.* 256 W 529, 41 NW (2d) 632.

**202.14 Reports of secretary and treasurer; report to commissioner.** The secretary of every town mutual shall annually prepare a statement showing its condition on the thirty-first day of December preceding its annual meeting, which shall specify the whole number of policies issued, the whole number then in force, the aggregate amount then insured, the amount of losses paid during the year, the amount of losses sustained and unpaid, if any, and all other matters required by the by-laws. The treasurer shall before each annual meeting prepare a detailed financial statement of its affairs for the year ending the thirty-first day of December preceding, showing amount on hand January first,

amount received during the year from premiums, amount received from each separate assessment, amount received from other sources, amount paid for losses, amount paid for expenses, giving a detailed statement of every item of expenses, and amount of cash on hand. Such statements shall be read at the annual meeting and together with the action thereon shall be entered at length upon the records. The company shall before February in each year make and file such report for the preceding year with the commissioner, and for failure to so file shall forfeit and pay to the state the sum of twenty-five dollars.

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

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

**202.17 Same; directors; risks.** The affairs of every reinsurance corporation shall be managed by a board of nine directors who shall be chosen by the representatives of the constituent town companies from among their number. Such reinsurance corporation shall have power to reinsure the risks of any of the constituent town mutual fire insurance companies; and such town mutual fire insurance companies are authorized to effect such reinsurance of their risks. The provisions of this chapter shall, so far as applicable, apply to the organization, management, powers, rights, privileges, duties and burdens of such reinsurance corporation and the members thereof, and the relations of such members with each other and with such reinsurance corporation, and the manner of withdrawal of members therefrom.

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

[202.19 Stats. 1927 renumbered section 202.16 by 1929 c. 418 s. 20]

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

[202.20 Stats. 1927 renumbered section 202.17 by 1929 c. 418 s. 21]

**202.20 Law governing companies organized under repealed chapter 211.** Any insurance company which was organized or operated under chapter 211, repealed by chapter 226, laws 1937, shall, upon June 11, 1937, be operated under and governed by the provisions of this chapter.

[202.21 Stats. 1927 renumbered section 202.18 by 1929 c. 418 s. 22]

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