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WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266–1946

Richard Sweet
Assistant Director
(608) 266–2982

Laura D. Rose, Interim Director
Legislative Council Staff
(608) 266–1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701–2536
FAX: (608) 266–3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **00–010**

AN ORDER to repeal Ins 13.06 (3) (a) and (5) and 13.08 (3) (d) and (e); to renumber Ins 13.06 (3) (a) and (b) and (6); and to amend Ins 13.03 (3), 13.05 (6), 13.06 (4), 13.09 (3) (a) 2. and 50.02 (3), relating to town mutual insurance.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

01–12–00 RECEIVED BY LEGISLATIVE COUNCIL.

02–04–00 REPORT SENT TO AGENCY.

RNS:GAA:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☑ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☐ NO ☑

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

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Ronald Sklansky
Director
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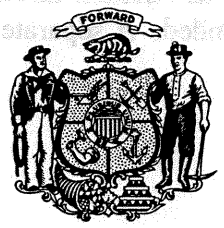
Assistant Director
(608) 266–2982



Jane R. Henkel,
Acting Director
Legislative Council Staff
(608) 266–1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701–2536
FAX: (608) 266–3830

CLEARINGHOUSE RULE 00–010

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. SECTION 3 repeals s. Ins 13.06 (3) (a) and renumbers sub. (3) (b) and (c). These actions must be taken separately. SECTION 3 should repeal s. Ins 13.06 (3) (a). The next SECTION would state: "SECTION 4. Ins 13.06 (3) (b) and (c) are renumbered Ins 13.06 (3) (a) and (b)." The text of the repealed and renumbered material should not be included.

b. In SECTION 4, it is improper to strike a portion of a word as is done by striking "ny" in "Any." The entire word must be shown as stricken-through, followed by "A".

c. In SECTION 4, in s. Ins 13.06 (4), the dollar sign preceding "50,000" should be stricken and a dollar sign should be included in the underscored material.

d. SECTION 5 repeats the error in SECTION 3 by attempting a repeal and a renumbering in the same SECTION. These actions should be separated into two SECTIONS--one that repeals s. Ins 13.06 (5) and one that renumbers s. Ins 13.06 (6).

e. SECTION 6 should merely state that s. Ins 13.08 (3) (d) and (e) are repealed. The text should not be shown. Also, here and elsewhere in the rule, "and" should be used rather than an ampersand.

f. In SECTION 7, s. Ins 13.09 (3) (a) 2. is amended. However, s. Ins 13.09 (3) (b) is also shown. Since it is not amended, it should not be included.

g. In SECTION 8, the dollar sign preceding "300,000" should be deleted and an underscored dollar sign should be inserted preceding "500,000." Also, rather than showing s. Ins 50.02 (3) (e) and (f) and the note as stricken-through, SECTION 8 should show that s. Ins 50.02 (3) (intro.) and (a) to (d) are amended. A separate SECTION of the rule should repeal s. Ins 50.02 (3) (e) and (f) and the note.

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AMENDING, REPEALING AND CREATING RULES

To amend Ins 13.03 (3) & 13.05 (6), repeal and renumber Ins 13.06 (a) to (c), amend Ins 13.06 (4), repeal and renumber Ins 13.06 (5) & (6), repeal Ins 13.08 (3) (d) & (e), amend Ins 13.09 (3) (a) 2., and amend Ins 50.02 (3), Wis. Adm. Code, relating to town mutual insurance.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41(3), 601.42, Chapter 612 Stats.

Statutes interpreted: ss. Chapter 612 Stats.

Analysis: The changes to Chapter Ins 13 reflect both recent statutory changes to the operation of town mutuals and today's economic realities. This rule increases the number of counties in which a town mutual may do business, extends the fidelity bond requirement table, increases surplus requirements and eliminates obsolete sections on unearned premium reserves.

The change to Chapter Ins 50 conforms to the Ins 13 changes and broadens the exemption from filing annual audited financials for some town mutuals.

SECTION 1. Section Ins 13.03 (3) is amended to read:

Ins 13.03 (3) MODEL ARTICLES. Town mutual insurers may adopt articles of incorporation with provisions as follows:

ARTICLES OF INCORPORATION

Article I. The name of this corporation is ____ Insurance Company, and the principal office for the transaction of business is located at ____, county of ____, (or: at the residence or the business office of the ____ (a specified officer of the company)) state of Wisconsin.

Article II. (1) The business of the corporation is:

(a) Fire and extended coverage insurance, including (excluding) windstorm and hail;

(b) Other property insurance customarily provided with fire insurance, to the extent authorized by statute or rule;

(c) Non-property insurance customarily provided with fire and extended coverage insurance to the extent authorized by statute or rule.

(2) The corporation may insure any property located within the territory specified in the articles, but not elsewhere except as authorized by statute.

(3) The corporation may do business in all of the towns, villages and cities within the county(ies) of____ (not more than ~~4~~ 8 unless specifically authorized by the commissioner or unless the articles result from a merger in which case the maximum is ~~8~~ 16), but not elsewhere except as authorized by statute.

Article III. The corporation shall be managed by a board of directors consisting of ____ (not less than 5) members divided into 3 classes. One class shall be elected at each annual meeting for a term of 3 years. The directors shall have such rights, powers and duties as are prescribed by statute, these articles, or the bylaws. Vacancies in the board may be filled by the directors for the interim to the next annual meeting. At that time, a director shall be chosen for the unexpired term. Directors 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.

Article IV. The officers of the corporation shall consist of a president, vice president, secretary and treasurer. These officers shall be chosen by the board of directors from among its members immediately after the annual meeting of the corporation and they shall hold office for one year or until their successors are duly elected and qualified, or until removed by the board, which may remove them without cause subject to any contract rights to compensation.

Article V. The annual meeting of the corporation for the election of directors and such other business as may properly come before the 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 corporation's territorial limits as may be determined by the board provided they shall give notice thereof by mail to all members at least 10 days prior to the date set by this article for the meeting and at least 30 days prior to the new date of the meeting. Special meetings of the corporation may be called by the board, (and shall be called by the president or secretary upon the written petition of 25 members) provided at least 30 days' notice thereof, reciting the proposed business to be taken up, shall be given by mail to each member. At all meetings of the corporation, 10 members shall constitute a quorum and each member shall have one vote. No member shall vote by proxy.

Article VI. These articles may be amended at any annual or duly called and noticed special meeting by a resolution adopted by two-thirds of the votes cast on the question, subject to approval by the commissioner under s. 612.04 (2). Dissolution of the corporation may be effected by a resolution under ss. 612.12 (2) and 612.25.

Article VII. The members of the board, by a majority of the votes cast on the question, may make and amend bylaws not inconsistent with the statutes, these articles or with the provisions or conditions of any existing policy. Any bylaw made or amended by the board shall be subject to repeal or amendment by the members by a majority of the votes cast on the question at an annual or special meeting.

Article VIII. Any assessment shall be levied in accordance with s. 612.54 (1) through (3). Notice of any assessment shall be subject to s. 612.54 (4). Consequences of default and failure to pay an assessment shall be as specified in s. 612.54 (5).

History: Cr. Register, August, 1974, No. 224, eff. 9-1-74.

SECTION 2. Section Ins 13.05 (6) is amended to read:

Ins 13.05 (6) FIDELITY BOND REQUIREMENTS. All insurers subject to this rule shall procure and maintain in force a fidelity bond or honesty insurance as a guaranty against financial loss caused by employe dishonesty. The bond shall cover all fraudulent or dishonest acts, including larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction or willful application, committed by employes acting alone or in collusion. The bond shall cover all officers, directors and employes having direct access to the company's assets and with responsibility for the handling and processing of income of the company and disbursements of the company. A blanket bond covering all officers, directors and employes satisfies this requirement. The minimum amount of the bond shall be determined on the basis of total admitted assets, plus gross income of the company as set forth in the following schedule:

Total Admitted Assets Plus Gross Income		Minimum Amount of Bond
0-	$ 500,000	$ 20,000
500,001-	1,000,000	35,000
1,000,001-	1,500,000	50,000
1,500,001-	2,000,000	65,000
2,000,001-	2,500,000	80,000
2,500,001-	3,000,000	95,000
3,000,001-	3,500,000	110,000
3,500,001-	4,000,000	125,000

4,000,001-	4,500,000	140,000
4,500,001-	5,000,000	155,000
5,000,001-	5,500,000	170,000
5,500,001-	6,000,000	185,000
6,000,001-	6,500,000	200,000
6,500,001-	7,000,000	215,000
7,000,001-	7,500,000	230,000
7,500,001-	8,000,000	245,000
8,000,001-	8,500,000	260,000
8,500,001-	9,000,000	275,000
9,000,001-	9,500,000	290,000
9,500,001-	10,000,000	305,000

is this the max?

History: Cr. Register, August, 1974, No. 224, eff. 9-1-74; reprinted to correct error, Register, March, 1980, No. 291; am. (3)(e), Register, April, 1982, No. 316, eff. 5-1-82; am. (3)(a) to (f), (4) and (6), Register, July, 1991, No. 427, eff. 8-1-91.

Separate

SECTION 3. Section Ins 13.06 (3) (a) is repealed and (b) & (c) renumbered to read:

Ins 13.06 (3) NONPROPERTY INSURANCE. ~~(a) Any town mutual insurer that writes any portion of a risk covered by nonproperty insurance shall maintain a surplus of not less than $50,000.~~

~~(b)~~ (a) If a town mutual insurer retains any portion of a risk covered by nonproperty insurance, the town mutual shall obtain reinsurance on that nonproperty business

with an insurer authorized to do business in this state. The maximum aggregate liability for incurred losses on nonproperty coverage retained by a town mutual insurer for any calendar year or contract year may not exceed the lesser of $200,000 or 20% of its surplus as of the preceding December 31.

~~(c)~~ (b) A town mutual may retain nonproperty insurance coverage not to exceed a proportional share of each limit of liability as shown in the following schedule:

Surplus as of the Preceding December 31	Proportional Share of each Limit of Liability Retained
$1,000,000 or greater	15%
$800,000 to $999,999	12%
$600,000 to $799,999	9%
$400,000 to $599,999	6%
$200,000 to $399,999	3%
Under $200,000	0%

SECTION 4. Section Ins 13.06 (4) is amended to read:

STRIKE ANT
INSERT "A"

Ins 13.06 (4) ~~PROPERTY INSURANCE~~ SURPLUS REQUIREMENTS ~~Any~~ town mutual insurer ~~that writes property insurance~~ shall maintain a surplus of the greater of ~~$50,000~~ $200,000 or 20% of the net written premiums and assessments in the 12-month period ending on or not more than 60 days before the date as of which the

calculation is made. Every town mutual shall achieve and maintain this minimum surplus by December 31, ~~1987~~ 2000.

SECTION 5. Section Ins 13.06 (5) is repealed and (6) is renumbered to read:

Ins 13.06 ~~(5) PROPERTY AND NONPROPERTY INSURANCE. Any town mutual insurer that writes nonproperty insurance and property insurance shall meet the requirements of subs. (3) and (4)~~.

~~(6)~~ (5) INDIVIDUAL CIRCUMSTANCES. The commissioner may take into consideration the experience, management and any other significant information about an individual town mutual insurer in determining whether to approve or disapprove town mutual property and nonproperty reinsurance and in setting of minimum surplus requirements.

History: Cr. Register, December, 1974, No. 228, eff. 1-1-75; cr. (4) to (6), Register, July, 1984, No. 343, eff. 8-1-84; am. (3) and (5), r. and recr. (6), cr. (3)(b) and (c), Register, December, 1984, No. 348, eff. 1-1-85.

SECTION 6. Section Ins 13.08 (3) (d) & (e) are repealed:

~~(d) Four year policies on which the entire premium is paid in advance.~~

~~1. 87.5% on policies in first year of term.~~

~~2. 62.5% on policies in second year of term.~~

~~3. 37.5% on policies in third year of term.~~

~~4. 12.5% on policies in fourth year of term.~~

~~(e) Five year policies on which the entire premium is paid in advance.~~

~~1. 90% on policies in first year of term.~~

~~2. 70% on policies in second year of term.~~

~~3. 50% on policies in third year of term.~~

~~4. 30% on policies in fourth year of term.~~

~~5. 10% on policies in fifth year of term.~~

SECTION 7. Section Ins 13.09 (3) (a) 2. is amended to read:

Ins 13.09 (3) (a) 2. All liability for incurred ultimate net losses in the aggregate during any calendar year in excess of ~~3 mills on the average net insurance in force~~ 15 % of the surplus as regards policyholders as of the prior year-end financial statement during the calendar year against windstorm or hail.

don't show

(b) Reinsurance of nonproperty insurance. Any town mutual which provides nonproperty insurance coverage shall obtain reinsurance as required by s. 612.33 (2) (b), Stats.

History: Cr. Register, December, 1974, No. 228, eff. 1-1-75.

SECTION 8. Section Ins 50.02 (3) is amended to read:

Ins 50.02 (3) An insurer licensed under ch. 612, Stats., if the insurer meets all of the following requirements:

(a) Has direct total written premium for the calendar year, including premiums on nonproperty coverage, of less than ~~$300,000;~~ 500,000.

(b) Has a net of reinsurance premium to policyholder surplus ratio of less than ~~6~~ 3 to 1 as of the December 31 of the year for which an audited financial report is otherwise required ~~;~~.

(c) Is not authorized under its articles of incorporation to do business in more than 4 8 counties ~~;~~ .

(d) Does not engage in the writing of nonproperty coverage unless the nonproperty coverage is ~~100%~~ 90% reinsured ~~;~~ .

rep.

~~(e) Does not engage in the interchange of reinsurance with other insurers licensed under ch. 612, Stats., except town mutual reinsurance corporations organized under s. 612.71, Stats., where the interchange reinsurance premiums exceed 20% of the annual net premiums written by the assuming insurer licensed under ch. 612, Stats.; and~~

~~(f) Does not own real estate, including, but not limited to, home office headquarters, whose cost or book value exceeds 10% of its total assets.~~

~~Note: Sections 50.01 to 50.17 first applies to financial reports for fiscal years ending on or after December 31, 1993.~~

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93; am. (1)(b), Register, December, 1995, No. 480, eff. 1-1-96.

SECTION 9. These changes will take effect on December 31, 2000, as provided in s. 227.22(2)(b), Stats.

Dated at Madison, Wisconsin, this _____ day of _____, 2000.

_____
Connie L. O'Connell
Commissioner of Insurance