

**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 Ins 13.06 (a) and renumber Ins 13.06 (b) & (c), amend Ins 13.06 (4), repeal Ins 13.06 (5) and renumber Ins 13.06 (6), repeal Ins 13.08 (3) (d) & (e), repeal and recreate Ins 13.09, amend Ins 50.02 (3) and repeal Ins 50.02 (e) & (f), 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 & 623.11 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).

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 employee dishonesty. The bond shall cover all

fraudulent or dishonest acts, including larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction or willful application, committed by employees acting alone or in collusion. The bond shall cover all officers, directors and employees 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 employees 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
<u>5,000,001-</u>	<u>5,500,000</u>	<u>170,000</u>
<u>5,500,001-</u>	<u>6,000,000</u>	<u>185,000</u>
<u>6,000,001-</u>	<u>6,500,000</u>	<u>200,000</u>
<u>6,500,001-</u>	<u>7,000,000</u>	<u>215,000</u>
<u>7,000,001-</u>	<u>7,500,000</u>	<u>230,000</u>
<u>7,500,001-</u>	<u>8,000,000</u>	<u>245,000</u>
<u>8,000,001-</u>	<u>8,500,000</u>	<u>260,000</u>

<u>8,500,001-</u>	<u>9,000,000</u>	<u>275,000</u>
<u>9,000,001-</u>	<u>9,500,000</u>	<u>290,000</u>
<u>9,500,001-</u>	<u>10,000,000</u>	<u>305,000</u>

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.

SECTION 3. Section Ins 13.06 (3) (a) is repealed.

SECTION 4. Ins 13.06 (3) (b) and (c) are renumbered Ins 13.06 (3) (a) and (b).

SECTION 5. Section Ins 13.06 (4) is amended to read:

Ins 13.06 (4) ~~PROPERTY INSURANCE~~ SURPLUS REQUIREMENTS. Any A 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~~ 2001.

SECTION 6. Ins 13.06 (5) is repealed.

SECTION 7. Ins 13.06 (6) is renumbered Ins 13.06 (5).

SECTION 8. Section Ins 13.08 (3) (d) and (e) are repealed:

SECTION 9. Section Ins 13.09 is repealed and recreated to read:

Ins. 13.09 Reinsurance. (1) PURPOSE. This rule implements and interprets s. 612.33, Stats., for the purpose of setting rules or guidelines for permitted and prohibited reinsurance and required reinsurance.

(2) SCOPE. This rule shall apply to all town mutual insurers subject to ch. 612, Stats.

(3) DEFINITIONS. For the purposes of this section only:

(a) "Maximum attachment point" means the amount of losses, expressed as a percentage of net premiums written, which constitutes the limit of the town mutual's retention under the aggregate excess of loss reinsurance required by sub. (4).

(b) "Net premiums written" means gross premiums written less premiums ceded for reinsurance inuring to the benefit of an aggregate excess of loss reinsurance contract. Reinsurance premiums ceded for aggregate excess of loss reinsurance, reinsurance premiums paid or recovered related to coverage for other years, and dividends paid to policyholders shall not be considered in determining net premiums written.

(4) REQUIRED REINSURANCE.

(a) Aggregate excess of loss reinsurance. Every town mutual shall obtain and continuously maintain unlimited aggregate excess of loss reinsurance for all risks covered by property and nonproperty insurance that is not otherwise ceded under another reinsurance contract. The aggregate excess of loss reinsurance shall provide a maximum attachment point expressed as a percentage of net premiums written, which is based on the relationship of the town mutual's prior year-end surplus to prior year-end gross premiums written, as set forth in the following schedule:

1.	Ratio that results from the division of prior year-end surplus by prior year-end gross premiums written	Maximum attachment point expressed as a percentage of net premiums written during the calendar year of coverage
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300% or higher	150%
101% to 299%	100%
100% or less	75%

2. For purposes of this section 13.09, all calculations shall be based on the final annual statement filed with the commissioner.

3. The aggregate excess of loss reinsurance contract shall warrant by specific reference that it complies with this section.

4. Any town mutual that fails to comply, or has reason to believe that it is in imminent risk of failure to comply, with this section after its effective date shall notify the commissioner within 5 days of such failure or awareness.

(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.

SECTION 10. Section Ins 50.02 (3) (intro.) and (a) to (d) are 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 ~~;-.~~

SECTION 11. Ins 50.02 (3) (e) and (f) and the note are repealed.

SECTION 12. Except as provided in SECTION 5 these changes will take effect on January 1, 2002, as provided in s. 227.22(2)(b), Stats.

Dated at Madison, Wisconsin, this _____ day of _____, 2001.

Connie L. O'Connell
Commissioner of Insurance



Scott McCallum, Governor

Connie L. O'Connell, Commissioner

Wisconsin.gov

March 12, 2001

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REPORT ON Section Ins 13 & 50, Wis. Adm. Code, relating
to town mutual insurance

Clearinghouse Rule No 00-010
Submitted Under s. 227.19 (3), Stats.
The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

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.

(b) Modifications made in proposed rule based on testimony at public hearing:

Staff conducted extensive discussions with industry representatives prior to and after the February 25, 2000 hearing. At the February, 2000, public hearing, there was general support and agreement for all parts of the rule change except section 9 (Ins 13.09). Regarding then-proposed section 9, the reinsurers expressed strongly that they did not want to be responsible for a town mutual's expense ratio or investment returns (which is implicit if reinsurers were to ensure the town mutual they could lose no more than a specified percentage of surplus in one year, as is required in Iowa). Reinsurers only wanted to indemnify traditional underwriting activity (losses due to fire, windstorms, liability claims, etc.).

Section 9 was revised and circulated for comment in August 2000, November 2000, and finally consensus was reached in February 2001. The current proposed section 9 (repealed and recreated Ins 13.09) is consistent with current market conditions for town mutual reinsurance, in that it expresses the town mutual's maximum retained losses as a percentage of net premiums written. The existing Ins 13.09 (enacted effective 1975) expressed the town mutual's maximum retained losses in terms of 3 mills on the average net insurance in force, which is not how the marketplace has written town mutual reinsurance contracts in over 15 years. So the current section 9 essentially updates OCI's rule to match the current activity in the marketplace.

(c) Persons who appeared or registered regarding the proposed rule:

Appearances For:

Philip Peterson, Middleton Insurance Co.

Jerry Mueller, WAMIC



Scott McCallum, Governor

Connie L. O'Connell, Commissioner

Wisconsin.gov

March 12, 2001

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Appearances For Information:

Dave Marchant, Marchant Consulting
Gary Strohm, Strohm Ballweg, LLP
Jeff Brandenburg, Clifton Gunderson, LLC

Letters received:

Ixonia Mutual Insurance Company
Grinnell Mutual Group
Wisconsin Association of Mutual Insurance Companies (2/15/2000)
Wisconsin Association of Mutual Insurance Companies (2/22/2000)
Clifton Gunderson, LLC
Wisconsin Association of Mutual Insurance Companies (3/6/2000)

(d) Response to Legislative Council staff recommendations
All comments were complied with and corrected.

(e) Regulatory flexibility analysis

1. None of the methods specified under s. 227.14 (2), Stats., for reducing the rule's impact on small businesses were included because all must be treated equally and thus it is not possible to have different rules for one segment of the population.
2. No issues were raised by small businesses during the hearing on the proposed rule.
3. The proposed rule does not impose any additional reporting requirements on small businesses.
4. Many town mutual insurers are small businesses as defined in s. 227.114 Stats. This rule does not establish different standards for small businesses and does not change the definition of small business. It is possible that additional small town mutuals may qualify for the less stringent compliance and reporting standards previously established by rules of this agency. Representatives of the town mutual association have met with staff and any effect on small business should be beneficial.
5. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.
6. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations
March 12, 2001