

Assembly Bill 296

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CHAPTER 254, LAWS OF 1967

AN ACT to amend 202.01 (1), 202.04 (3), 202.10 (1), 202.15 and 209.04 (10) (a); and to create 202.06 (6) and (7), 202.08 (1) (c) and 202.085 (5) of the statutes, relating to permitting town mutual insurance companies to write multiple peril policies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 202.01 (1) of the statutes is amended to read:

202.01 (1) Any number of persons, not less than 100, residing in the same county, who collectively own \$100,000 worth of insurable property therein which they desire to insure, may form a town mutual insurance company for the purpose of providing fire insurance protecting against loss or damage to property, by fire, lightning, hail, tempest, explosion, and against any other loss or damage from any cause to property or in the use of, or income from property, except that arising from legal liability for loss or damage to property of third parties, or for loss or damage resulting from accident or injury to, or death of any person and for which the insured is liable. and in addition, but sub-

ject to ss. 202.06 (6) and 202.08 (1), the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18).

SECTION 2. 202.04 (3) of the statutes is amended to read:

202.04 (3) The directors shall annually appoint from their own number an adjusting committee of not less than 3 members for the adjustment of all losses, *other than losses arising under insurance written pursuant to ss. 202.06 (6) and 202.08 (1) (c)*, 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 *such* loss to one or more of its members.

SECTION 3. 202.06 (6) and (7) of the statutes are created to read:

202.06 (6) They may transact by direct insurance any or all of the kinds of insurance authorized by s. 201.04 (5), (10), (11) and (18), if such transactions are written in one policy and as a part of or supplemental to the standard town mutual policy and the obligations assumed or liabilities incurred in such transactions for multiple peril insurance are assumed or fully reinsured by another licensed insurer meeting the surplus requirements of s. 201.05 (2m) and the fact of such assumption of liability is stated in the policy or attached endorsement; provided that as a condition precedent to engaging in the writing of said kinds of insurance, the town mutual shall have a minimum surplus as regards policy holders of \$50,000.

(7) The exclusion for town mutuals in s. 209.04 (10) (a) does not apply to town mutuals writing the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18), except that no examination or fee for an agent's license for fire insurance is required of any person who makes application therefor who has engaged in the business of soliciting insurance exclusively for town mutuals for a period of 3 years immediately preceding the date of filing his application. The commissioner of insurance may require such applicant to submit satisfactory proof that he has so engaged for such period.

SECTION 4. 202.08 (1) (c) of the statutes is created to read:

202.08 (1) (c) When authorized under par. (a) and subject to the requirements of s. 202.06 (6), the company may also issue, as a rider to the standard town mutual policy, an endorsement for the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18). The statement of assumption of obligations assumed or liabilities incurred required to be shown on the policy or endorsement, or the contract of reinsurance, shall be filed with and approved by the commissioner. The reinsurance contract shall state that the reinsurer shall adjust all losses arising under insurance written pursuant to this paragraph; that payment of any such loss may be made by the reinsurer directly to the person making such claim; that any claimant in any case in which he could maintain an action against the town mutual reinsured under the policy provisions required by s. 204.30 (1) may maintain an action jointly against the town mutual reinsured and reinsurer and claimant may have recovery against reinsurer for payment to the extent in which it may be liable under such reinsurance; and that there shall be no diminution in the amount recoverable from the reinsurer as a result of any delinquency proceedings pertaining to the reinsured town mutual, any provision in the reinsurance contract to the contrary notwithstanding.

1. Every member of a town mutual to whom notice is given of any loss or damage to property of 3rd parties or of loss or damage resulting from accident or injury to or death of any person and for which such member may be liable, or against whom a claim is made or action is

brought under insurance provided pursuant to this subsection shall immediately forward to the reinsurer or the insurer assuming the obligations or liabilities incurred, every such notice, demand, claim, summons or other process relating to said insurance.

2. Every town mutual writing insurance specified in s. 201.04 (5), (10), (11) and (18) shall charge an advance premium at rates set in accordance with sound actuarial principles for said kinds of insurance and shall file with the commissioner, every manual, schedule, minimum, class rate, rating schedule or rating plan and every underwriting rule, and every modification of any of the foregoing which it proposes to use for such kinds of insurance, including short rate tables. Every filing shall state the proposed effective date and indicate the character and extent of the coverage contemplated. Such short rate tables shall specify the percentages of the premium to be charged or retained by the town mutual for said kinds of insurance, and shall cover all policies of such insurance the term of which is less than the term prescribed for such insurance by the rate and rating schedules as filed by such town mutual. When a filing is not accompanied by the information upon which the town mutual supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets his approval, he shall require such town mutual to furnish the information upon which it supports such filing.

3. The commissioner shall review filings under subd. 2 as soon as reasonably possible. Each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 15 days if written notice is given within the waiting period to the town mutual making the filing that he needs such additional time for consideration. A filing shall meet the approval of the commissioner unless within the waiting period, or any extension, he sends to the company making the filing written notice of disapproval specifying the grounds for his disapproval and stating that such filing will not become effective. At any time subsequent to an effective filing, the commissioner may, disapprove such filing, but only after a hearing held upon not less than 10 days' written notice to the town mutual, specifying the matters to be considered at such hearing, and only by an order specifying in what respect he finds such filing fails to meet his approval, and stating when, within a reasonable period thereafter, such filing will no longer be effective. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order. Any town mutual aggrieved by any order or decision of the commissioner made without a hearing on a filing may, within 30 days after notice of the order or decision to the company, make written request to the commissioner for a hearing. The commissioner shall hear such party within 20 days after receipt of such request and shall give not less than 10 days' written notice of the time and place of the hearing. Within 10 days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reason therefor. Pending such hearing and decision, the commissioner may suspend or postpone the effective date of his previous action. Any approval, disapproval, order or decision of the commissioner under this section made after a hearing may be reviewed under ch. 227.

SECTION 5. 202.085 (5) of the statutes is created to read:

202.085 (5) Insurers issuing the standard town mutual policy under this section are authorized to affix thereto and include therein written statements, riders, endorsements and provisions to write the kinds of insurance specified in s. 201.04 (5), (10), (11) and (18) in accordance with ss. 202.06 (6) and 202.08 (1) (c).

SECTION 6. 202.10 (1) of the statutes is amended to read:

202.10 (1) Every member who may sustain loss from a peril against which he is insured *other than losses arising under insurance written pursuant to ss. 202.06 (6) and 202.08 (1) (c)* shall immediately notify the secretary or the president who shall ~~forthwith~~ *immediately* 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.

SECTION 7. 202.15 of the statutes is amended to read:

202.15 Any number of town mutual fire insurance companies not less than 9 which collectively carry fire insurance risks aggregating \$10,000,000, may form themselves into a corporation for mutual reinsurance against ~~loss by fire or lightning~~ *losses under insurance authorized in s. 202.01 (1), except losses arising under the kinds of insurance in s. 201.04 (5), (10), (11) and (18).*

SECTION 8. 209.04 (10) (a) of the statutes is amended to read:

209.04 (10) (a) *Except as otherwise provided in s. 202.06 (7),* persons engaged in the business of soliciting insurance exclusively for town mutual insurance companies.

Approved December 15, 1967.