

Chapter Ins 13

TOWN MUTUAL INSURANCE

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Ins 13.01 Other rules applicable to town mutual insurers. The following chapter and sections of the Wisconsin Administrative Code are applicable to town mutual insurers:

- (1) Chapter Ins 5 RULES OF PROCEDURE FOR HEARINGS.
- (2) Section Ins 6.07 INSURANCE POLICY LANGUAGE SIMPLIFICATION.
- (3) Section Ins 6.11 INSURANCE CLAIMS SETTLEMENT PRACTICES.
- (4) Section Ins 6.20 INVESTMENTS OF INSURANCE COMPANIES.
- (5) Section Ins 6.52 BIOGRAPHICAL DATA RELATING TO COMPANY OFFICERS AND DIRECTORS.
- (6) Section Ins 6.72 RISK LIMITATIONS.
- (7) Section Ins 6.76 GROUNDS FOR DISAPPROVAL OF AND AUTHORIZED CLAUSES FOR FIRE, INLAND MARINE AND OTHER PROPERTY INSURANCE FORMS.
- (8) Chapter Ins 7 FORMS.

History: Cr. Register, August, 1974, No. 224, eff. 9-1-74, emerg. r. (1) (b) eff. 6-22-76; r. (1) (b), Register, September, 1976, No. 249, eff. 12-1-76; r. and recr., Register, April, 1982, No. 316, eff. 5-1-82.

Ins 13.02 Definitions, usages, synonyms and abbreviations. (1) "Admitted assets" as used in this chapter includes the total of ledger assets, plus the total of nonledger assets, less the total assets not admitted as determined in the annual report filed with the office of the commissioner of insurance.

(2) "Gross income" as used in this chapter includes premiums written and assessments collected on direct business and from reinsurance assumed, policy and membership fees, interest and dividend income from investments, gains on investments, rental income from real estate investments and miscellaneous income.

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

Ins 13.03 Organization of town mutuals. (1) PURPOSE. This rule is promulgated to implement, interpret and set forth procedural requirements necessary to carry out the purpose and provisions of s. 612.02, Stats.

(2) SCOPE. This rule shall apply to all town mutual insurers organized or operating under ch. 612, Stats.

(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 8 unless specifically authorized by the commissioner or unless the articles result from a merger in which case the maximum is 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 mem-

bers 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; am. (3), Register, June, 2001, No. 546, eff. 1-1-02.

Ins 13.04 Undertaking to pay premiums and assessments and contract forms. (1) **PURPOSES.** This rule is promulgated to implement, and set forth procedural requirements necessary to carry out the purpose and provisions of ss. 612.51, 612.52 and 612.54, Stats.

(2) **SCOPE.** This rule shall apply to all corporations organized or operating under ch. 612, Stats.

(3) **UNDERTAKING TO PAY PREMIUMS AND ASSESSMENTS.** The undertaking to pay premiums and assessments to be signed by all prospective members shall be in form and substance substantially as follows, and may be a part of the application:

UNDERTAKING TO PAY PREMIUMS AND ASSESSMENTS

I, _____ of _____, in consideration of insurance on my buildings and personal property, insured to myself, my heirs and assigns by the _____ Insurance Company, bind myself, and to the extent of their interest in the property my heirs and assigns, to pay to the company the premiums for such insurance and, within the period of time stated in the notice of assessment, my share of all legal assessments, if any, levied by the company, together with all legal costs and charges incurred in legal proceedings to collect any assessment levied upon me and statutory penalties for nonpayment, according to the statutes and the terms and conditions in the policy and any renewals thereof or of the insurance thereunder. My property covered by the insurance, both personal and real, shall be liable for that share, waiving all exemptions.

Dated this _____ day of _____, 20__

Witness _____
Agent

Applicants

(4) **TOWN MUTUAL POLICY FORMS.** Town mutual policy forms shall conform to ss. Ins 6.07 and 6.76, and shall include provisions substantially as follows relating to articles of incorporation and bylaws and notice of annual meeting:

(a) **ARTICLES OF INCORPORATION AND BYLAWS**

It is hereby mutually understood and agreed by and between this company and the insured, that this policy is made and accepted with reference to the Articles of Incorporation and Bylaws, which are hereby declared to be part of this contract. This provision applies whether or not the Articles of Incorporation and Bylaws are included in this policy.

(b) **NOTICE**

The insured is notified that by virtue of this Policy he or she 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.

(5) **PERMISSIBLE VARIATIONS.** Provisions of a town mutual policy may be so arranged in the policy as to provide for convenience in its preparation and issuance. Blank spaces may be changed or altered, spaces may be provided for the listing of rates and premi-

ums for coverages insured under the policy or by riders or by endorsements attached to or printed thereon, and spaces may be utilized for reference to forms and for listing the amount of insurance, provisions as to coinsurance, provisions as to mortgage clause, descriptions and locations of the insured property and other matters advisable and necessary to indicate a delineation of the insurance effective under the contract, and other data as may be included for duplication of daily reports for office records.

(6) **FORMS AND ENDORSEMENTS.** Riders, forms and endorsements may be attached to the town mutual policy to include perils in addition to fire and lightning and for other necessary purposes. Except when in contradiction with ch. 612, Stats., the contracts, endorsements, and other forms of town mutuals should be similar to like forms of insurers subject to chs. 631 and 632, Stats.

(7) **MORTGAGEE CLAUSE.** If a loss under a policy issued by a town mutual insurer is payable to a mortgagee who is not an insured, the mortgagee clause may provide:

- (a) For payment by the insurer despite policy defense; or
- (b) That the mortgagee is not liable for any premium or assessment, regardless of whether coverage has been extended after payment of a premium or assessment by the mortgagee.

History: Cr. Register, August, 1974, No. 224, eff. 9-1-74; emerg. am. (4) (a) and (c), eff. 6-22-76; am. (4) (a) and (c), Register, September, 1976, No. 249, eff. 10-1-76; am. (3), r. and recr. (4) and (5), cr. (6), Register, April, 1982, No. 316, eff. 5-1-82; cr. (7), Register, May, 1986, No. 365, eff. 6-1-86.

Ins 13.05 Accounting records, accounting controls and reports. (1) **PURPOSE.** This rule is intended to implement and interpret s. 601.41, Stats., for the purpose of setting minimum standards and techniques for accounting and reporting of data relating to company financial transactions and other operations.

(2) **SCOPE.** This rule shall apply to all town mutual insurers organized or operating under ch. 612, Stats.

(3) **ACCOUNTING RECORDS.** The following journals, ledgers and subsidiary records or similar records from which the data indicated may be obtained shall be maintained:

(a) **Policy Register:** A register or other records which shall contain the policy number, policyholder's name, effective date of policy, term of policy, risk in force, amount of risk in force reinsured, premium amount, policy fee, reinsurance premium, and provision for miscellaneous data.

(b) **Cash Receipts Journal:** A journal which shall contain the date, payor, amount received, identification, and reference to the general ledger account and amount affected. All cash received by the company shall be recorded in the journal.

(c) **Cash Disbursements Journal:** A journal which shall contain the date, payee, check number, amount of check, and a reference to the general ledger account and amount affected. All cash disbursed by the company shall be recorded in the journal.

(d) **General Journal:** A journal for recording entries for all transactions affecting ledger items, which are not recorded in the cash receipts journal or cash disbursements journal. The general journal shall contain the date of the transaction, an explanation, the ledger account affected, and the amount of the transaction.

(e) **General Ledger:** A ledger which shall have an account for each asset and liability, surplus, income and expense items of the company. Each account shall contain an account title and/or number, a date for each transaction, a description, debit amounts, credit amounts and an account balance.

(f) **Loss Claim Register:** A register for recording all claims filed with the company. It shall list all claims in claim number order and contain the claimant's and policyholder's name, policy number, date of loss, date that loss was reported to the company, cause of the loss, estimated amount of the loss, and the date the claim was settled and the amount of loss payments, if any. Claims closed without payment should be so noted.

(4) **ACCOUNTING CONTROLS.** The following minimum controls of records and data handling should be maintained:

(a) Cash Receipts: All cash receipts shall be recorded on a cash receipts journal. The cash receipts and cash funds of the company shall at all times be kept separate and distinct from any personal, agency or other funds. All cash received shall be deposited in the bank intact, in the company's name. A duplicate deposit ticket shall be retained in the company's office for each deposit. All checks in payment of premiums or received by the company for other purposes shall be endorsed for deposit immediately upon receipt. All cash receipts shall be deposited at least weekly. All cash deposits shall be prepared and made, whenever possible, by some individual other than the one who records the receipts or reconciles the bank accounts.

(b) Cash Disbursements: All disbursements except those made from the petty cash fund shall be made by check. All checks issued by the company shall be recorded in chronological and numerical order in a cash disbursements journal. Each disbursement shall be supported and explained in the records of the company. All checks used for disbursements shall be pre-numbered and properly accounted for. All checks shall be mailed or delivered immediately after being signed. All disbursements over a specified amount shall be approved by more than one officer, director or employee of the company. Whenever possible, a person other than the person maintaining the company's cash disbursement journal or reconciling the bank accounts shall sign the checks.

(c) Petty Cash Fund: A petty cash fund may be maintained for the payment of small bills or for making change. Each disbursement shall be supported by a signed voucher or receipted invoice. At any time the total of the cash, checks and paid vouchers in the fund shall exactly equal the total of the fund as originally set up. The petty cash fund shall be reimbursed at regular intervals and always on the last business day of each year.

(d) Reconciliation of Bank Accounts: Bank statements shall be obtained from each of the banks in which the company maintains checking accounts at the end of each calendar month. The balance appearing on the bank statement shall be reconciled with the cash balance appearing on the company's records at the end of each month. Whenever possible, bank reconciliations should be made or reviewed by an individual other than the individuals preparing and making bank deposits, recording income and disbursements, and individuals signing company checks.

(e) Loss Claims: All claims reported to the company shall be assigned a claim number when reported. Claims in excess of a specified amount shall be approved by more than one officer, director or employee of the company. All claims shall be adequately documented so that amounts for settlement and coverage can be verified. The claim file shall contain the reason for denial if the claim is denied.

(f) General Internal Controls: Non-negotiable evidences of company investments such as registered bonds, certificates of deposits, notes, etc., shall be maintained to ensure their safekeeping with adequate safety controls. Negotiable evidences of company investments shall be maintained in a safety deposit box in a bank, or under a safekeeping agreement with a bank or banking and trust company pursuant to s. 610.23, Stats. Access to a company safety deposit box containing negotiable securities shall require the presence and signature of at least 2 officers, directors or employees of the company. Company accounting records shall be maintained in such detail that verification can be made to source documents supporting each transaction.

(5) FINANCIAL STATEMENTS. Financial statements shall be prepared by the secretary and treasurer of the company showing the financial condition of the company as of December 31, of each year or whenever requested by the commissioner. The report shall be prepared as prescribed by the commissioner.

(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:

<i>Total Admitted Assets Plus Gross Income</i>	<i>Minimum Amount of Bond</i>
\$ 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

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; am. (6), Register, June, 2001, No. 546, eff. 1-1-02.

Ins 13.06 Surplus requirements. (1) PURPOSE. This rule implements and interprets ss. 612.31 and 612.33, Stats., for the purpose of setting minimum surplus requirements as a condition for the transaction of specified types of business.

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

(3) NONPROPERTY INSURANCE. (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.

(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:

<i>Surplus as of the Preceding December 31</i>	<i>Proportional Share of each Limit of Liability Retained</i>
\$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%

(4) SURPLUS REQUIREMENTS. A town mutual insurer shall maintain a surplus of the greater of \$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, 2001.

(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; r. (3) (a) and (5), **renum. (3) (b) and (c) to be (3) (a) and (b), and (6) to be (5), and am. (4), Register, June, 2001, No. 546, eff. 1-1-02; except (4), eff. 7-1-01.**

Ins 13.08 Valuation of liabilities. (1) PURPOSE. This rule implements and interprets s. 623.04, Stats., for the purpose of determining liabilities for financial statements filed with the commissioner.

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

(3) UNEARNED PREMIUM RESERVE. The financial statements of town mutuals which charge advance premiums shall show as a liability an unearned premium reserve. The unearned premium reserve must be calculated on all advance premiums, on the original or full-term premium basis, plus all advance premiums on reinsurance assumed from other town mutual insurers, less advance premiums on risks assumed by other insurers under reinsurance contract. The minimum unearned premium reserves shall be calculated on the premiums in force as follows:

(a) One year policies or policies on which premiums are paid annually.

1. 50% of the net advanced premium.

(b) Two year policies on which the entire premium is paid in advance.

1. 75% on policies in first year of term.
2. 25% on policies in second year of term.

(c) Three year policies on which entire premium is paid in advance.

1. 83% on policies in first year of term.
2. 50% on policies in second year of term.
3. 17% on policies in third year of term.

(4) The unearned premium reserve shall be the sum of the amounts as calculated above. Any other method of calculating the unearned premium reserve must be approved by the commissioner.

History: Cr. Register, December, 1974, No. 228, eff. 1-1-75; am. (3) (intro.), Register, April, 1982, No. 316, eff. 5-1-82; r. (3) (d) and (e), **Register, June, 2001, No. 546, eff. 1-1-02.**

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 purpose 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
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.

History: Cr. Register, December, 1974, No. 228, eff. 1-1-75; r. and recr., **Register, June, 2001, No. 546, eff. 1-1-02.**