

TITLE 41
INSURANCE

CHAPTER 31
COUNTY MUTUAL INSURERS

41-3101. SCOPE OF CHAPTER -- PROVISIONS EXCLUSIVE. (1) This chapter applies only to domestic county mutual fire insurers as heretofore organized or doing business under the provisions of [title 41](#), chapter 23, Idaho Code (prior to 1961 revision), or as hereafter organized under this chapter.

(2) This chapter shall also apply as to domestic fire insurance associations or organizations heretofore formed and affiliated with and insuring only property owned by a bona fide fraternal society operating on the lodge system, or owned by members of such society. Except as otherwise expressly provided for, such associations or organizations, hereinafter referred to as "fraternal insurers," are also included within the terms "insurer" or "county mutual fire insurer" as used in this chapter.

(3) No provision of this code shall apply to such insurers unless contained or referred to in this chapter.

[41-3101, added 1961, ch. 330, sec. 659, p. 645.]

41-3102. ORGANIZATION OF COUNTY MUTUAL FIRE INSURERS. (1) Twenty-five (25) or more citizens of Idaho, each of whom shall be owner of substantial insurable property in a county of this state within which the insurer proposes to do business, may hereafter incorporate a county mutual fire insurer.

(2) The incorporators shall prepare and execute in quadruplicate articles of incorporation setting forth:

(a) The name of the corporation, which shall contain the words "county mutual fire insurance company" preceded by a distinctive name which is not so similar to that of any other authorized insurer as to be likely to confuse or mislead;

(b) The county or counties of this state within which the insurer proposes to do business, and the name of the town or city therein in which the insurer's head office is to be located;

(c) The objects for which the corporation is formed, including the property to be insured and the perils to be assumed by the insurer, which shall not be in excess of the insuring power of such an insurer as set forth in this chapter;

(d) That insurance shall be limited to members of the insurer, and that each such member shall be liable to assessment for payment of the losses and expenses of the insurer, and that such liability may be enforced by the corporation;

(e) The duration of the corporation's existence, which may be for a specified term of years or perpetual;

(f) The name, residence address in this state, and citizenship of each incorporator;

(g) The names of the corporation's initial board of directors, not less than nine (9) in number, who shall manage the insurer's affairs for a specified term which shall not exceed one (1) year from date of incorporation; and

(h) Such other lawful provisions as may be necessary or desirable.

(3) The articles of incorporation so executed shall be acknowledged by at least three (3) of the incorporators before an officer authorized to take acknowledgment of deeds.

[41-3102, added 1961, ch. 330, sec. 660, p. 645.]

41-3102A. CONVERSION INTO DOMESTIC MUTUAL. (1) A county mutual insurer upon affirmative vote of not less than two-thirds (2/3) of its members who vote on such conversion, pursuant to due notice, and the approval of the director of the terms therefor, may be converted to a domestic mutual insurer.

(2) A domestic mutual insurer which has converted from a county mutual insurer shall be subject to the same requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance, except that prior to June 30, 2004, surplus as regards policyholders may be maintained at a level equal to fifty percent (50%) net written premium in the calendar year preceding, with a minimum set at one million dollars (\$1,000,000).

(3) The director shall not approve any plan for such conversion which is inequitable to members.

[41-3102A, added 1979, ch. 40, sec. 1, p. 62; am. 1994, ch. 240, sec. 7, p. 755; am. 2000, ch. 299, sec. 1, p. 1030.]

41-3103. FILING OF ARTICLES -- COMMENCEMENT OF BUSINESS. (1) The articles of incorporation of a proposed new county mutual fire insurer, after due execution and acknowledgment as provided in section [41-3102](#), shall be filed as required by those provisions of section [41-2805](#) (filing of articles) applying to mutual insurers.

(2) After the articles of incorporation have been so filed, the directors shall adopt by-laws, elect officers, and apply to the director for a certificate of authority as a county mutual fire insurer. Upon issuance of the certificate of authority the insurer may commence business as a county mutual fire insurer.

[41-3103, added 1961, ch. 330, sec. 661, p. 645.]

41-3104. INSURING POWERS. Within the limits of restrictions set forth in its articles of incorporation and otherwise under this chapter, such an insurer may:

(1) Issue property insurance, as defined in section [41-504](#), Idaho Code, as to farm property and personal property reasonably associated therewith, churches and public halls, and certain other dwellings and property as specified below, all as follows:

(a) The property insured must be owned by a member of the insurer, and must (except as expressly provided in this section) be located within the county or counties in which the insurer is authorized to transact insurance as provided in section [41-3105](#), Idaho Code;

(b) The insurer shall not insure any property located within the limits of any incorporated city, town, or village, except as follows:

(i) The insurer may insure dwellings and/or household goods owned by its members who, after becoming such members, have moved within the limits of any such incorporated city, town, or village;

(ii) The insurer may insure property of a member located upon an otherwise open tract of land occupied by the member and not less than five (5) acres in area, within the limits of any such city, town, or village; and

(iii) The insurer may insure grange halls, wherever located in this state.

(2) The insurer may insure other buildings and/or contents owned by its members individually or as an organization and not located within any city, town, or village with population in excess of one hundred twenty-five (125).

(3) The insurer may insure churches and other public halls only if located outside of incorporated cities, towns, and villages.

(4) The insurer may insure farm machinery wherever located against fire, theft, and upset, or against fire and such additional perils as are usually insured under an extended coverage indorsement.

[41-3104, added 1961, ch. 330, sec. 662, p. 645; am. 1963, ch. 48, sec. 1, p. 199; am. 1969, ch. 211, p. 612; am. 1977, ch. 142, sec. 10, p. 312.]

41-3104A. PROPERTY USED TO FIGHT FIRES -- CHARGES. Any county mutual fire insurer may acquire and dispose of real and personal property necessary to prevent, abate or extinguish fires.

Non-discriminatory, reasonable charges based on insurable value, as approved by the director, may be assessed against any owner who has received services from a county mutual fire insurer to prevent, abate or extinguish fires.

Activities authorized under this section shall not necessarily be limited to members or to the insurer's territory.

[I.C., sec. 41-3104A, as added by 1972, ch. 143, sec. 1, p. 310.]

41-3105. INSURER'S TERRITORY. An insurer shall insure only such property as it is otherwise authorized to insure under this chapter, and which is located within one (1) or more of the counties of this state within which the insurer may transact insurance as provided by its articles of incorporation, subject to the following conditions:

(1) An insurer which has less than seven million dollars (\$7,000,000) of insurance in force on separate properties shall not transact insurance in an area greater than that of the county in which its head office is located, together with not more than the four (4) Idaho counties contiguous with such head office county;

(2) An insurer which has seven million dollars (\$7,000,000) but less than twelve million dollars (\$12,000,000) of insurance in force on separate properties may transact insurance in the county in which its head office is located together with not more than the eight (8) Idaho counties most adjacent to such head office county;

(3) An insurer which has twelve million dollars (\$12,000,000) or more of insurance in force on separate properties may transact insurance in the county in which its head office is located together with not more than the twelve (12) Idaho counties most adjacent to such head office county and/or may extend its activities and operations into an adjoining state; and

(4) A fraternal insurer may operate under this chapter in any or all of the counties of this state.

[41-3105, added 1961, ch. 330, sec. 663, p. 645.]

41-3106. LIMIT OF RISK. (1) The maximum amount of insurance which an insurer shall retain as to any one (1) subject of insurance, after deduction of applicable reinsurance, shall not exceed ten per cent (10%) of the insurer's

admitted assets or twenty-five thousand dollars (\$25,000), whichever is the larger amount.

(2) As to insurance against fire and perils other than windstorm, tornado, hailstorm, and other catastrophic perils, a "subject of insurance" for the purposes of this provision includes all properties insured by the same insurer which are customarily considered by insurance underwriters to be subject to loss or damage from the same fire or the same occurrence of any other peril insured against.

[41-3106, added 1961, ch. 330, sec. 664, p. 645, am. 1978, ch. 109, sec. 1, p. 227.]

41-3107. REINSURANCE. A county mutual fire insurer may cede reinsurance to another county mutual fire insurer or to any insurer authorized in this state to transact the kind of insurance involved or approved by the director. A county mutual fire insurer shall accept reinsurance only from another county mutual fire insurer.

[41-3107, added 1961, ch. 330, sec. 665, p. 645.]

41-3108. CERTIFICATE OF AUTHORITY REQUIRED. (1) No county mutual fire insurer shall transact insurance except as authorized by a subsisting certificate of authority issued to it by the director.

(2) To apply for a certificate of authority the insurer shall file with the director its written application therefor showing:

- (a) The name and head office address of the insurer;
- (b) The name, residence address, and occupation of each of the insurer's directors and officers;
- (c) The kinds of insurance proposed to be transacted;
- (d) The Idaho counties in which the insurer proposes to transact insurance; and
- (e) Such other and additional information relative to the insurer as the director may reasonably require.

(3) The application shall be accompanied by such of the following as may not already be on file with the director:

- (a) Copy of the insurer's articles of incorporation and of its by-laws, each certified by the insurer's corporate secretary;
- (b) Copy of the insurer's financial statement as of a date within three (3) months prior to the filing of the application;
- (c) Copy of form of insurance policy or policies proposed to be issued;
- (d) Schedule of or statement as to sums proposed to be collected in advance at time of issuance of insurance; and
- (e) Fee for issuance of the certificate of authority in the amount specified in section [41-3118](#) (fee schedule).

(4) If the director finds the application and accompanying documents to be consistent with law, he shall issue the insurer a certificate of authority; otherwise, the director shall deny the application for certificate of authority by written order stating the grounds for such denial and refund to the applicant any sum tendered as fee for issuance of the certificate.

(5) Certificates of authority issued under this section shall continue in force as long as the insurer is entitled thereto under this code and until suspended or revoked by the director, or terminated at the request of the insurer; subject, however, to continuance of the certificate by the insurer each year by payment prior to March 1 of the continuation fee provided

in section [41-3118](#) (fee schedule) and due filing by the insurer of its annual statement for the calendar year preceding as required under section [41-3116](#). If not so continued by the insurer, its certificate of authority shall expire as at midnight on the March 31 next following such failure of the insurer to continue it in force.

[41-3108, added 1961, ch. 330, sec. 666, p. 645.]

41-3109. DIRECTORS. (1) The affairs of the insurer shall be under the direction of a board of directors comprised of not less than nine (9) nor more than twenty-five (25) members of the insurer.

(2) After expiration of the term of initial directors, if any, as provided for in the articles of incorporation, directors shall be elected at the annual meeting of the insurer's members for terms of not more than three (3) years each. If terms of more than one (1) year are used, the terms of directors shall be staggered so that the terms of a proportionate number of directors will expire each year.

(3) A director may also act as an agent for the insurer with the same but not greater contract authority as any other agent.

[41-3109, added 1961, ch. 330, sec. 667, p. 645; am. 1983, ch. 46, sec. 1, p. 117.]

41-3110. MEMBERS. (1) Every policyholder of the insurer is thereby a member of the insurer, with all of the rights and liabilities of membership.

(2) All policies issued by the insurer shall state specifically that the liability of each member is not limited. All persons becoming members of the insurer shall sign the constitution and by-laws, and shall be held in law to comply with all the provisions and requirements of the insurer.

(3) Each member shall have one (1) vote and no more in the election of a director and on any other matter coming to a vote at meetings of members. A member may vote in person or by proxy, or by mail, but no person shall vote more than five (5) proxies.

[41-3110, added 1961, ch. 330, sec. 668, p. 645.]

41-3111. ADVANCE PAYMENTS BY MEMBERS. The insurer shall not charge the member, and no member of the insurer shall pay to the insurer, in connection with the inception of insurance in the insurer or any renewal or continuation of such insurance, any charge or amount in excess of such amount as may be reasonably necessary for payment of the member's share of the insurer's expenses (exclusive of insured losses incurred) to be incurred during the next succeeding twelve (12) months, and for maintenance or replenishment of the emergency fund provided for in section [41-3112](#) (3). This provision shall not be deemed to prohibit the levy and collection of assessments for payment of incurred losses or for maintenance of the emergency fund, as provided for in section [41-3112](#), nor collection of membership or policy fees in fixed nominal amounts.

[41-3111, added 1961, ch. 330, sec. 669, p. 645.]

41-3112. ASSESSMENTS. (1) A county mutual fire insurer may from time to time assess and collect from its members, and from the owners or trustees of churches or public halls insured by it, such sums of money as may be neces-

sary to pay losses incurred under policies issued by the insurer, from time to time as such losses occur, and to pay such fire protection expenses and other expenses of the insurer as may have been approved by the board of directors consistent with section [41-3113](#).

(2) The insurer may classify its policies for assessment purposes in accordance with types and circumstances of properties and hazards insured, and may vary the amount of assessment as applied to the respective such classes, if the insurer maintains adequate records from which the loss experience of the respective classes can readily be determined.

(3) The levy and collection of assessments shall be regulated by the insurer's constitution and by-laws. But no assessment to cover insured losses incurred shall be levied in advance of the occurrence of the losses on account of which the assessment is made; except, that the insurer may, in its by-laws, provide for an emergency fund, which fund shall at no time exceed ten thousand dollars (\$10,000) or one percent (1%) of the amount of insurance in force, whichever is the larger sum, out of which fund losses to the extent of the money therein may be immediately paid.

[41-3112, added 1961, ch. 330, sec. 670, p. 645.]

41-3112A. ADVANCE PREMIUMS -- RETURN PREMIUMS. (1) Advance premiums. A county mutual insurer having a surplus over all liabilities of not less than \$50,000, including a liability for unearned premiums, and for so long as such surplus is continuously maintained, such insurer may bill and collect assessments on the advance premium basis.

(2) Return premium. Upon the termination of any policy of insurance during any effective policy year, the unearned premium shall be returned to a member policyholder in accordance with the rules for pro-rata and short rate cancelations applying to casualty insurance policies.

(3) The limitations as to the emergency fund imposed by section [41-3112](#) (3) shall not apply to a county mutual insurer qualifying under this section to collect premiums in advance.

[I.C., sec. 41-3112A, as added by 1965, ch. 277, sec. 1, p. 724.]

41-3113. EXPENSES. (1) The operating expenses of the insurer shall be reasonable in amount in relation to the volume of business transacted and insurance losses incurred.

(2) The insurer's by-laws shall contain reasonable limitations of all such expenses, and such provisions and all modifications thereof shall be subject to the director's approval.

[41-3113, added 1961, ch. 330, sec. 671, p. 645.]

41-3114. INVESTMENTS. (1) The insurer may invest and have invested such funds as it may have on hand pursuant to this chapter but not necessary to expend for current expenses and losses, in investments as authorized by the following sections of the Idaho Code only:

- (a) Section [41-707](#) (public obligations);
- (b) Section [41-708](#) (obligations, stock of certain federal agencies);
- (c) Section [41-709](#) (irrigation district bonds);
- (d) Section [41-716](#) (investment trust securities);
- (e) Section [41-720](#) (savings and share accounts);

(f) Sections [41-721](#) through [41-725](#) (mortgage loans), as to mortgage loans on Grange halls only; and

(g) Section [41-3115](#) (site for head office).

(2) The following sections of the Idaho Code shall to the extent applicable, also apply with respect to such an insurer:

(a) Section [41-702](#) (eligible investments);

(b) Section [41-703](#) (general qualifications);

(c) Section [41-704](#) (authorization of investments);

(d) Section [41-705](#) (record of investments);

(e) Section [41-706](#)(1) (diversification of investments in securities, etc. of any one person);

(f) Section [41-730](#) (disposal of ineligible property and securities); and

(g) Section [41-731](#) (prohibited investments and investment underwriting).

[41-3114, added 1961, ch. 330, sec. 672, p. 645; am. 1984, ch. 241, sec. 1, p. 587.]

41-3115. SITE FOR HEAD OFFICE. (1) The board of directors of an insurer may purchase, hold and convey in the name of and for the insurer, real estate for a site for its principal or head office when authorized so to do by the affirmative vote of a majority of the members present in person or by proxy in adoption of a resolution for that purpose at any annual meeting of the insurer's members or any special meeting of the members called for the purpose. The resolution shall name the city or town or village within the insurer's territory in which the site shall be purchased. When the site is so purchased the insurer may transact any or all of its business, including the annual or any special meeting of its members, in such city, town or village.

(2) The resolution for purchase of the site shall also limit the amount of the insurer's funds that can be invested therein, and in the improvements thereon or to be constructed thereon. Any such resolution hereafter adopted shall be subject to the director's approval. The director shall approve the resolution unless he finds, after a hearing thereon, that the procedure leading to adoption of the resolution was unlawful or that the amounts to be so expended are excessive.

(3) The insurer shall dispose of such head office property within five (5) years after it ceases to be used or to be necessary for head office purposes, subject to the right of the director to grant a reasonable extension of time upon proof satisfactory to him that the insurer will suffer materially by an earlier forced sale of the property.

[41-3115, added 1961, ch. 330, sec. 673, p. 645.]

41-3116. RECORDS -- ANNUAL STATEMENT. (1) The insurer shall keep at its head office records and accounts of its transactions, claims, and affairs in such form and with such completeness as may be reasonably necessary for the identification and examination thereof.

(2) Annually on or before March 1 the insurer shall file with the director a full and true statement of its financial condition, transactions and affairs as of the December 31 preceding. The statement shall be in such general form as is required or accepted by the director.

[41-3116, added 1961, ch. 330, sec. 674, p. 645.]

41-3117. AMENDMENT OF ARTICLES OF INCORPORATION. (1) The articles of incorporation of such an insurer may be amended in any lawful respect by approval by its board of directors by affirmative vote of at least two-thirds (2/3) of all its directors and by adoption thereafter by affirmative vote of not less than two-thirds (2/3) of the insurer's members present or represented by proxy at any meeting of members, at which a quorum as required by the insurer's constitution or by-laws was present, and if the notice of such meeting contained notice of the proposed amendment.

(2) An amendment so adopted shall be filed in accordance with the applicable provisions of section [41-2827](#)(2); except that the fee for the filing of the amendment with the director shall be as provided in section [41-3118](#), Idaho Code. The filing fee shall not be subject to refund.

[41-3117, added 1961, ch. 330, sec. 675, p. 645; am. 1984, ch. 23, sec. 4, p. 40.]

41-3118. FEES. (1) Every county mutual fire insurer shall pay to the director all fees in advance as provided for by regulation.

(2) The director shall transmit and report all fees so collected by him as provided in section [41-406](#), Idaho Code.

[41-3118, added 1984, ch. 23, sec. 5, p. 41.]

41-3119. OTHER PROVISIONS APPLICABLE. The following chapters and provisions of this code shall also apply to county mutual fire insurers to the extent so applicable and not inconsistent with the express provisions of this chapter and the reasonable implications of such express provisions:

- (1) Chapter 1 (scope of code);
- (2) Chapter 2 (the director of the department of insurance);
- (3) The following provisions of chapter 3 (authorization of insurers and general requirements):
 - (a) Section [41-305](#) (certificate of authority required);
 - (b) Section [41-308](#) (2) (general eligibility for certificate of authority);
 - (c) Section [41-311](#) (name of insurer);
 - (d) Section [41-323](#) (what certificate evidences--ownership of certificate);
 - (e) Section [41-325](#) (amendment of certificate of authority);
 - (f) Section [41-326](#) (suspension or revocation of certificate of authority, mandatory grounds);
 - (g) Section [41-327](#) (suspension, revocation of certificate of authority, discretionary and special grounds);
 - (h) Section [41-328](#) (order, notice of suspension, revocation or refusal--effect upon agents' authority);
 - (i) Section [41-329](#) (duration of suspension--insurer's obligations during suspension period--reinstatement); and
 - (j) Section [41-336](#) (review of annual statement--additional information);
- (4) Section [41-510](#) ("reinsurance" defined);
- (5) The following sections of chapter 6 (assets and liabilities):
 - (a) Sections [41-601](#) ("assets" defined), [41-602](#) (assets as deductions from liabilities), and [41-603](#) (assets not allowed);
 - (b) Section [41-604](#) (disallowance of "wash" transactions); and

- (c) Sections [41-613](#) (valuation of bonds), [41-614](#) (valuation of other securities), and [41-615](#) (valuation of property);
- (6) Sections [41-1201](#) (representing or aiding unauthorized insurer prohibited), [41-1202](#) (representing or aiding unauthorized insurer prohibited-penalty), and [41-1203](#) (suits by unauthorized insurer prohibited);
- (7) Chapter 13 (trade practices and frauds);
- (8) Chapter 18 (the insurance contract);
- (9) Section [41-2401](#) (standard fire policy);
- (10) The following provisions of chapter 28 (organization and corporate procedures of stock and mutual insurers):
 - (a) Section [41-2803](#) (applicability of general corporation statutes);
 - (b) Section [41-2828](#) (insurance business exclusive);
 - (c) Section [41-2829](#) (membership in mutuals);
 - (d) Section [41-2830](#) (by-laws of mutual);
 - (e) Section [41-2831](#) (rights of mutual members, in general);
 - (f) Section [41-2832](#) (meetings of members of mutual insurer);
 - (g) Section [41-2833](#) (special meetings of members of mutual insurer);
 - (h) Section [41-2836](#) (notice of change of directors, officers);
 - (i) Section [41-2837](#) (prohibited pecuniary interest of officials) except agents may also serve as directors of county mutual insurers;
 - (j) Section [41-2838](#) (management and exclusive agency contracts);
 - (k) Section [41-2839](#) (home office, records, and assets; penalty for unlawful removal);
 - (l) Section [41-2840](#) (vouchers for expenditures);
 - (m) Section [41-2841](#) (borrowed surplus);
 - (n) Section [41-2851](#) (solicitations in other states);
 - (o) Sections [41-2857](#) (mergers and consolidations, mutual insurers) and [41-2858](#) (bulk reinsurance, mutual insurers); and
 - (p) Section [41-2859](#) (mutual member's share of assets on liquidation).
- (11) Chapter 33 (rehabilitation and liquidation); and
- (12) Sections 799 to 809 of chapter 330 of the session laws of 1961 (transitory provisions).

[41-3119, added 1961, ch. 330, sec. 677, p. 645; am. 1983, ch. 46, sec. 2, p. 117.]