

**CHAPTER 26.1-13**  
**COUNTY MUTUAL INSURANCE COMPANIES**

**26.1-13-01. County mutual insurance company - Organization.**

A corporation for mutual insurance may be formed in accordance with this chapter by any number of persons, not less than fifty, residing in not more than forty counties in this state, which collectively own property of not less than four hundred thousand dollars in value which the persons desire to insure; or any number of persons, not less than twenty-five, residing in any one county in this state, which collectively own property of not less than one hundred thousand dollars in value which the persons desire to insure. A county mutual insurance company organized under this chapter shall maintain a surplus of at least two hundred thousand dollars.

**26.1-13-02. Articles of incorporation - Territory of operation - Insurance applications required.**

Persons desiring to form a county mutual insurance company shall submit to the commissioner a description of the territory of operation and shall submit to the commissioner the articles of incorporation of the proposed company. The territory of operation is subject to the review and approval of the commissioner. An existing county mutual insurance company that desires to expand its territory of operation shall submit a description of the current territory of operation and proposed territory of operation to the commissioner for review and approval. If merger of two or more county mutual insurance companies is proposed, the commissioner shall determine the territory of operation of the merged company. Upon a showing of good cause, the territory of operations of the merged company may exceed thirty counties. If the articles are found to comply with this chapter, the commissioner shall approve the articles and the articles must be filed in the office of the secretary of state and a certified copy must be filed with the commissioner. The articles must be signed by the number of persons required to incorporate the company and must be accompanied by sufficient evidence of the execution of bona fide applications for insurance to the number and in the amount stated in section 26.1-13-01. The articles of incorporation must set forth:

1. The name of the company.
2. The name of the city in or near which the business office of the company is to be located.
3. The intended duration of the company, which is perpetual.

**26.1-13-03. County mutual company has perpetual existence.**

Every county mutual insurance company has perpetual existence. If the articles of incorporation of any company show that the existence of the company is other than perpetual, the articles may be amended in the manner provided by law so as to extend the term of existence of the corporation to show that it is perpetual.

**26.1-13-04. Certificate of compliance.**

After articles of incorporation have been approved and filed, the commissioner shall deliver to the persons filing the articles a certificate to the effect that the county mutual insurance company has complied with all of the requirements of law. The certificate constitutes the authority of the company to commence business and issue policies. A certified copy of the articles and the certificate may be used for or against the company with the same effect as the original and are conclusive evidence of the fact of the organization of the company as of the date of the certificate.

**26.1-13-05. Bylaws - Contents.**

A county mutual insurance company may make bylaws, not inconsistent with the constitution or laws of this state, necessary to provide for the management of the company's affairs in accordance with this chapter and to prescribe the duties of the company's officers. Bylaws may be repealed or amended in the manner provided in this chapter.

**26.1-13-06. Amendment of articles or bylaws.**

The articles of incorporation of a county mutual insurance company may be amended, and its bylaws adopted, amended, or repealed, at any annual meeting of the company, or at any special meeting called for that purpose, by the affirmative vote of two-thirds of the members voting on the proposition.

**26.1-13-07. Directors - Number - Election - Powers and duties.**

The general management of the business of a county mutual insurance company must be vested in a board of directors consisting of no fewer than five members nor more than fifteen members. The members of the board must be elected by the members of the company at the annual meeting in the manner provided by the bylaws of the company. As nearly as may be, one-third of the members of the first board must be elected for one year, one-third for two years, and one-third for three years, and in all future elections, except in the case of elections to fill vacancies on the board, members must be elected for terms of three years. Each director holds office until a successor is elected and qualified. In the election of the members of the first board, each incorporator is entitled to one vote, and at every subsequent election each member of the company is entitled to one vote per policy. The board may exercise the usual powers and shall perform the usual duties of a board of directors of a corporation generally.

**26.1-13-08. Officers - Election - Bond.**

The board of directors shall elect a president and a vice president from the board and shall select a secretary and a treasurer who may or may not be members of the company. The offices of secretary and of treasurer may be held by one person. The secretary and the treasurer shall give bonds to the company for the faithful performance of their respective duties in any amounts prescribed by the board. Each officer holds office for one year and until a successor is elected and qualified.

**26.1-13-09. Membership in county mutual company - Limitation on right to be director.**

Any person owning property within the limits of the territory within which a county mutual insurance company is authorized to transact business may become a member of the company and entitled to all of the rights and privileges appertaining thereto by insuring therein. A person who does not reside within the territorial limits may not become a director of the company.

**26.1-13-10. Members of county mutual company - Policyholders - Notice of meetings.**

Every person insured by a county mutual insurance company is a member while the policy is in force. The member is entitled to one vote per policy only and must be notified of the time and place of the holding of the meetings of the company by written notice or by an imprint on the face of each policy, receipt, or certificate of renewal, as follows:

The assured is hereby notified that by virtue of this policy the assured is a member of the \_\_\_\_\_ mutual insurance company, and that the annual meetings of the company are held at its home office or designated location on the \_\_\_\_\_ day of \_\_\_\_\_ in each year at \_\_\_\_\_ o'clock.

If the blanks in the notice are properly filled, the notice is sufficient.

**26.1-13-11. Annual meeting - Quorum.**

The annual meeting of a county mutual insurance company must be held following notice of a prescribed date, time, and place unless notice is provided otherwise in the bylaws of the company. Twenty members constitute a quorum for the transaction of business at an annual meeting.

**26.1-13-12. General powers, liabilities, and duties of county mutual company - Office - Name - Limitations.**

A county mutual insurance company has the powers and is subject to the liabilities and duties of other insurance companies, except:

1. If the company is organized by the residents of a single county, the name of the county together with the word "county" must be embraced in the corporate name of the company.
2. Notwithstanding contrary territorial limitations in this chapter, a county mutual insurance company may operate and issue the following policies in all the counties of the state:
  - a. Protection against loss or damage by any covered hazard to a seasonal dwelling if the primary residence is insured by the company in an authorized county.
  - b. Protection against loss or damage by tornadoes;
  - c. Protection against loss or damage by windstorms;
  - d. Protection against loss or damage by cyclones;
  - e. Protection against loss or damage by hail, except upon growing crops; and
  - f. Protection against loss or damage by any hazard upon any risk upon livestock.

**26.1-13-13. Applicability of general insurance laws.**

In all respects not specifically provided for in this chapter, county mutual insurance companies are subject to the provisions of this title relating to insurance companies generally.

**26.1-13-14. County mutual company - Insurance authority.**

A county mutual insurance company may insure against loss or damage by fire; lightning; cyclone; windstorm; tornado; hail, except upon growing crops; any insured hazard upon livestock; explosion, except the explosion of steam boilers and flywheels; riot; riot attending a strike; civil commotion; aircraft; vehicles; smoke to the property of the insured; theft; vandalism; malicious mischief; water damage and freezing; collision and overturn of farm machinery; collapse of buildings; glass breakage; the additional living expenses incurred over and above normal living costs in cases of damage; the removal of debris; the cost of repairing or replacing homes or living residences; or all such forms of insurance.

**26.1-13-15. Territorial limits of county mutual company's operations - Terms of policies - Property insurable.**

1. A county mutual insurance company may not insure any property beyond the company's authorized territory of operation except as provided in subsection 2 of section 26.1-13-12 and except that this territorial limitation does not apply to reinsurance contracts.
2. A policy may not be issued to exceed five years.
3. A policy may not be issued covering property located within the platted limits of an incorporated city in this state, except the policy may provide coverage as specified under sections 26.1-13-14 and 26.1-13-16 within the platted limits of the incorporated city on:
  - a. The place of residence;
  - b. A rental property that is no larger than a four residential rental unit;
  - c. A nonresidential property that is not used by the general public; or
  - d. A nonresidential property that is part of an existing policy.
4. The company may insure all property located outside of incorporated cities within the limits of the company's territory, as provided under section 26.1-13-02.
5. Policies issued under subsection 3 on property located within the platted limits of an incorporated city with a population over ten thousand must conform to rules adopted by the commissioner establishing requirements for underwriting risks and safeguarding financial solvency. A company's net written premiums of the current year in cities with a population over ten thousand may not exceed thirty-five percent of the gross written premiums of the previous year.
6. A policy issued by the company, if the policy so provides, may cover loss or damage to livestock, personal property, vehicles, and farm machinery while temporarily removed from the premises of the insured to other locations.

**26.1-13-16. Liability insurance contracts - Limitations.**

Any county mutual insurance company may make insurance contracts against loss, expense, or liability by reason of bodily injury or death by accident, disability, sickness, or disease suffered by others for which the insured may be liable or may have assumed liability, except no liability insurance contracts against any or all loss or expense resulting from the ownership, maintenance, or use of any motor vehicle normally operated, intended to be operated, or designed for use, upon any highway, road, or street in this state, may be made.

**26.1-13-17. Classification of property for insurance purposes.**

A county mutual insurance company may classify the property insured by the policies at the time of issuance under different rates corresponding, as nearly as may be, to the greater or lesser risk from fire or lightning and loss which may attach to each of the buildings insured.

**26.1-13-18. Maximum amount of insurance on single risk.**

The maximum amount of insurance which a county mutual insurance company may retain on a single risk other than under a liability insurance contract, after deduction of applicable reinsurance, may not exceed ten percent of the admitted assets of the company or thirty thousand dollars, whichever is the larger amount. The maximum amount of insurance which a county mutual insurance company may retain on a single risk under a liability insurance contract may not exceed one percent of the surplus maintained by the company.

**26.1-13-19. Reinsurance of excessive losses.**

Upon approval by the commissioner, any county mutual insurance company may reinsure in a single contract, with other county mutual insurance companies, against excessive losses on all insurance contracts written.

**26.1-13-20. Designation of attorney in fact - Assessments.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-21. Supervision by commissioner.**

The commissioner has full power of supervision over all reinsurance contracts executed under section 26.1-13-19.

**26.1-13-22. Insured to give undertaking to pay pro rata share of losses - Cash payment or premium required.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-23. Loss - Notice - Adjustment - Arbitration - Finality of determination of board of adjustment - Powers of board.**

Every member of a county mutual insurance company which sustains loss shall notify the company immediately after the loss is sustained. The company shall assign the loss to be adjusted in the manner provided in the insurance policy of the company. If the parties are unable to agree upon the amount of the damage, the claimant and the company each shall choose a disinterested party to constitute a board of arbitration to settle the loss. If the parties cannot agree, the parties shall choose a third party to act with the parties. The board of arbitration may examine witnesses and shall determine all matters in dispute, and the decision of the arbitration board is final.

**26.1-13-24. Assessments for payment of losses and expenses.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-25. Permanent expense and loss fund - Assessment or premiums - Delinquent loss assessments credited.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-26. Notice of assessment - Extension of time of payment of assessment.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-27. Collection of assessments - Suits against directors - Suits against company to recover losses.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-28. Borrowing of money authorized.**

The board of directors of a county mutual insurance company, in the board's discretion, may borrow money for the payment of unpaid losses.

**26.1-13-29. Withdrawal from membership.**

Any member of a county mutual insurance company may withdraw from membership at any time while the company continues to transact the business for which the company was organized if, by withdrawal, the number of members remaining in the company will not be reduced below the original number of incorporators, or the assets of the company will not be reduced below the amount at the time of incorporation. In order to withdraw, a member shall surrender the policy for cancellation and give written notice of withdrawal to the secretary or designated employee of the company.

**26.1-13-30. Cancellation of policies.**

A county mutual insurance company at any time may terminate or cancel any policy issued by it by giving the insured not less than five days' written notice of the termination or cancellation of the policy and returning to the insured pro rata any unearned premium which the insured may have paid to the company.

**26.1-13-31. County mutual fire and lightning companies may form reinsurance company.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-32. Articles of incorporation and bylaws of mutual reinsurance company - Contents.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-33. Articles and bylaws of mutual reinsurance company - Certificate of authority - Right to do business.**

Repealed by S.L. 2019, ch. 236, § 16.

**26.1-13-34. Annual statement to be furnished to members of county mutual company.**

The secretary of each county mutual insurance company formed under this chapter shall prepare and submit to the members of the company, at each annual meeting, a copy of the annual statement required to be filed with the commissioner under section 26.1-03-07.

**26.1-13-35. County mutual insurance company - Reports to commissioner.**

Each county mutual insurance company shall file an annual report with the commissioner no later than March first of each year which must be verified by at least two principal officers of the company and which must cover the preceding calendar year. The commissioner may require additional reports as are deemed necessary and appropriate to enable the commissioner to carry out the commissioner's duties under this chapter. The reports must be on forms prescribed by the commissioner. The commissioner may also require a company that operates in more than twenty counties to file audited financial statements as deemed necessary.