

40-5205. Same; rights of policyholders. (a) Policyholders shall have the right to reject the transfer and novation of their contracts of insurance. Policyholders electing to reject the assumption transaction shall return to the transferring insurer the pre-addressed, postage-paid response card or other written notice and indicate thereon that the assumption is rejected (collectively referred to as the "response card").

(b) Payment of any premium to the assuming company during the 24-month period after notice is received shall be deemed to indicate the policyholder's acceptance of the transfer to the assuming insurer and a novation shall be deemed to have been effected, provided that the premium notice clearly states that payment of the premium to the assuming insurer shall constitute acceptance of the transfer. However, the premium notice shall also provide a method for the policyholder to pay the premium while reserving the right to reject the transfer. With respect to any home service business or any other business not using premium notices, the disclosures and procedural requirements of this subsection are to be set forth in the notice of transfer required by K.S.A. 2016 Supp. 40-5202, and amendments thereto, and in the assumption certificate.

(c) After no fewer than 24 months from the mailing of the initial notice of transfer required under K.S.A. 2016 Supp. 40-5202, and amendments thereto, if positive consent to, or rejection of, the transfer and assumption has not been received or consent has not been deemed to have occurred under subsection (b) of this section, the transferring company shall send to the policyholder a second and final notice of transfer as specified in K.S.A. 2016 Supp. 40-5202, and amendments thereto. If the policyholder does not accept or reject the transfer during the one-month period immediately following the date on which the transferring insurer mails the second and final notice of transfer, the policyholder's consent will be deemed to have occurred and novation of the contract will be effected. With respect to the home service business, or any other business not using premium notices, the 24-month and one-month periods shall be measured from the date of delivery of the notice of transfer pursuant to subsection (a) of K.S.A. 2016 Supp. 40-5203, and amendments thereto.

(d) The transferring insurer will be deemed to have received the response card on the date it is postmarked. A policyholder may also send its response card by facsimile or other electronic transmission or by registered mail, express delivery or courier service, in which case the response card shall be deemed to have been received by the assuming insurer on the date of actual receipt by the transferring insurer.

(e) This section shall take effect on and after July 1, 2004.

History: L. 2004, ch. 128, § 10; May 20.