

**§763. Notice requirements of intent to transfer insurance contract**

**1. Notice to policyholders, agents and brokers.** Notice to policyholders, agents and brokers is required as follows.

A. The transferring insurer shall provide or cause to be provided to each policyholder a notice of transfer by first class mail, addressed to the policyholder's last known address or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with acknowledged receipt. A notice of transfer must also be sent to the transferring insurer's agents or brokers of record on the affected policies. [PL 1993, c. 603 (NEW).]

B. The notice of transfer must state or provide:

- (1) The date the transfer and novation of the policyholder's contract of insurance is proposed to take place;
- (2) The names and addresses and telephone numbers of the assuming and transferring insurers;
- (3) That the policyholder has the right to either consent to or reject the transfer and novation;
- (4) The procedures and time limit for consenting to or rejecting the transfer and novation;
- (5) A summary of an effect that consenting to or rejecting the transfer and novation has on the policyholder's rights;
- (6) A statement that the assuming insurer is licensed to write the type of business being assumed in the state where the policyholder resides or is otherwise authorized, as provided in this subchapter, to assume the business;
- (7) The name and address of the person at the transferring insurer to whom the policyholder should send a written statement of acceptance or rejection of the transfer and novation;
- (8) The address and phone number of the Bureau of Insurance so that the policyholder may write or call for further information regarding the financial condition of the assuming insurer; and
- (9) The following financial data for both companies:
  - (a) Ratings for the last 5 years if available or for a lesser period as are available from 2 nationally recognized insurance rating services acceptable to the superintendent including the rating service's explanation of the meaning of the ratings. If ratings are unavailable for a year of the 5-year period, this must also be disclosed;
  - (b) A balance sheet as of December 31st for the previous 3 years if available or for a lesser period as is available and as of the date of the most recent quarterly statement;
  - (c) A copy of the Management's Discussion and Analysis that was filed as a supplement to the previous year's annual statement; and
  - (d) An explanation of the reason for the transfer. [PL 1993, c. 603 (NEW).]

C. Notice must be given in a manner that conforms to the following form:

**NOTICE OF TRANSFER**

**IMPORTANT: THIS NOTICE AFFECTS  
YOUR CONTRACT RIGHTS.**

**PLEASE READ IT CAREFULLY.**

Transfer of Policy

The [name of assuming insurer] has agreed to replace us as your insurer under [policy or certificate name and number] effective [date]. The [name of assuming insurer] principal place of business is [address]. Certain financial information concerning both companies is attached, including (1) ratings for the time period required by the Bureau of Insurance from 2 nationally recognized insurance rating services; (2) balance sheets for the time period required by the Bureau of Insurance and as of the date of the most recent quarterly statement; (3) a copy of the Management's Discussion and Analysis that was filed as a supplement to the previous year's annual statement; and (4) an explanation of the reason for the transfer. You may obtain additional information concerning [name of assuming insurer] from reference materials in your local library or by contacting the Superintendent of Insurance at [address and phone number].

The [name of assuming insurer] is licensed to write this coverage in your state. The Superintendent of Insurance in your state has reviewed the potential effect of the proposed transaction and has approved the transaction.

Your Rights

You may choose to consent to or reject the transfer of your policy to [name of assuming insurer]. If you want your policy transferred, you may notify us in writing by signing and returning the enclosed preaddressed, postage-paid card or by writing to us at:

[name, address and facsimile number of contact person]

Payment of your premium to the assuming company constitutes acceptance of the transaction. A method is provided to allow you to pay the premium while reserving the right to reject the transfer.

If you reject the transfer, you may keep your policy with us or exercise an option under your policy. If we do not receive a written rejection you have, as a matter of law, consented to the transfer. Before this consent is final you will be provided a second notice of the transfer 24 months from now. After the second notice is provided, you have one month to reply. If you have paid your premium to the [name of assuming insurer], without reserving your right to reject the transfer, you will not receive a second notice.

( ) This is your first notice. Please respond within 24 months.

( ) This is your second notice. You must respond within one month to reject the transfer of your policy. If we do not hear from you by [date], your policy will be transferred to [name of assuming insurer].

Effect of Transfer

If you accept this transfer, [name of assuming insurer] will be your insurer. The insurer has direct responsibility to you for the payment of all claims, benefits and for all other policy obligations. We no longer have an obligation to you.

If you accept this transfer, you must make all premium payments and claims submissions to [name of assuming insurer] and direct all questions to [name of assuming insurer].

For your convenience, we have enclosed a preaddressed postage-paid response card. Please take time now to read the enclosed notice and complete and return the response card to us.

If you have further questions about this agreement, you may contact [name of transferring insurer] or [name of assuming insurer].

Sincerely,

[name of transferring insurer address phone]	..... [name of assuming insurer address phone]
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[Notice Date]

RESPONSE CARD

\_\_\_\_\_ Yes, I accept the transfer of my policy from [name of transferring insurer] to [name of assuming insurer].

\_\_\_\_\_ No, I reject the proposed transfer of my policy from [name of transferring insurer] to [name of assuming insurer] and wish to retain my policy with [name of transferring insurer].

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

[PL 1993, c. 603 (NEW).]

D. The notice of transfer must include a preaddressed, postage-paid response card that a policyholder may return as the written statement of acceptance or rejection of the transfer and novation. [PL 1993, c. 603 (NEW).]

E. The notice of transfer must be filed as part of the prior approval requirement set forth in subsection 2, paragraph A. [PL 1993, c. 603 (NEW).]  
[PL 1993, c. 603 (NEW).]

**2. Notification and prior approval.** The requirements for notification and prior approval are as follows:

A. Prior approval by the superintendent is required for a transaction when an insurer domiciled in this State assumes or transfers obligations or risks on contracts of insurance under an assumption reinsurance agreement. An insurer licensed in this State may not transfer obligations or risks on contracts of insurance issued to or owned by residents of this State to an insurer that is not licensed in this State. An insurer domiciled in this State may not assume obligations or risks on contracts of insurance issued to or owned by policyholders residing in another state unless it is licensed in the other state or the insurance regulatory official of that state has approved the assumption. [PL 1993, c. 603 (NEW).]

B. A licensed foreign insurer that enters into an assumption reinsurance agreement that transfers the obligations or risks on contracts of insurance issued to or owned by residents of this State shall file or cause to be filed the assumption certificate with the superintendent a copy of the notice of transfer and an affidavit that the transaction is subject to substantially similar requirements in the state of domicile of both the transferring and assuming insurer. [PL 1993, c. 603 (NEW).]

C. A licensed foreign insurer that enters into an assumption reinsurance agreement that transfers the obligations or risks on contracts of insurance issued to or owned by residents of this State shall obtain prior approval of the superintendent and be subject to all other requirements of this subchapter unless the transferring and assuming insurers are subject to assumption reinsurance

requirements adopted by law or rule in the jurisdiction of their domicile, which are substantially similar to those contained in this subchapter. [PL 1993, c. 603 (NEW).]

D. The following factors, along with such factors as the superintendent determines appropriate under the circumstances, must be considered by the superintendent in reviewing a request for approval:

- (1) The financial condition of the transferring and assuming insurers and the effect the transaction has on the financial condition of each company;
- (2) The competence, experience and integrity of those persons who control the operation of the assuming insurer;
- (3) The plans or proposals the assuming party has with respect to the administration of the policies subject to the proposed transfer;
- (4) Whether the transfer is fair and reasonable to the policyholders of both companies; and
- (5) Whether the notice of transfer to be provided by the insurer is fair, adequate and not misleading. [PL 1993, c. 603 (NEW).]

[PL 1993, c. 603 (NEW).]

#### SECTION HISTORY

PL 1993, c. 603 (NEW).

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