

2810.3200 BLANKET ENCUMBRANCES.

The subdivider shall not sell lots, units, parcels, or interests within a subdivision subject to a blanket encumbrance unless one or more of the following conditions are met:

A. All sums paid or advanced by purchasers are placed in an escrow or other depository acceptable to the commissioner until:

(1) the fee title contracted for is delivered to the purchaser by deed, together with complete release from all financial encumbrances; or

(2) the subdivider or the purchaser default and fail to perform under their contract of disposition and there is a final determination by a court of competent jurisdiction or the commissioner as to the disbursal of such moneys; or

(3) the funds are voluntarily returned to the contract purchaser.

B. The fee title to the subdivision is placed in trust under an agreement or trust acceptable to the commissioner until a proper release from each blanket encumbrance, including all taxes, is obtained and title contracted for is delivered to such purchaser.

C. A bond, cash, or certified check is furnished to the commissioner in the name of the state for the benefit and protection of purchasers of the lots, units, parcels, or interest, in such amount and subject to terms as approved by the commissioner. The bond shall be executed by a surety company authorized to do business in this state and which has given consent to be sued in this state. The bond or agreement accompanying the cash or certified check shall provide for the return of money paid or advanced by any purchaser, on account of purchase of any lot, unit, parcel, or interest if the title contracted for is not delivered and a full release from each blanket encumbrance is not obtained. If it is determined that the purchaser by reason of default or otherwise, is not entitled to the return of the money, or any portion thereof, then the bond, cash, or certified check may be released by the commissioner in the amount of money to which the purchaser of a lot, unit, parcel, or interest is not entitled.

D. The blanket encumbrance shall contain a provision evidencing the subordination of the rights of the subdivider to the rights of those persons purchasing from the subdivider and further evidencing that the subdivider is able to secure releases from the blanket encumbrance with respect to the property.

E. An alternative plan acceptable to the commissioner.

Statutory Authority: *MS s 83.38*

History: *10 SR 276*

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