

367.474 Performance bond by subdivider -- Cash in lieu of bond.

- (1) In the sale or offering for sale of any subdivision which is primarily directed toward recreational or retirement use, in the sale of which any improvements are advertised but not completed, or which are completed but for which supplies of labor and material have not been paid, the subdivider shall furnish a performance bond payable to the Attorney General in an amount equal to the costs of all the improvements, including, but not limited to, roads, lakes, golf courses, and stables which are advertised prior to the sale of the land or property. The bond shall remain in effect until the advertised improvements are made; and if they are not completed within a time deemed reasonable by the Attorney General, the bond shall, after a hearing, be forfeited to the Attorney General for the use and benefit of the purchasers of the property. Surety for the bond shall be by a company authorized to write surety bonds in this state. Upon completion of the promised improvements and production of releases by all creditors with a potential lien interest in the improvements and production of a verified statement to this effect, the subdivider may petition the Attorney General for release of the bond.
- (2) If the land or property offered for sale by the subdivider is located outside of the Commonwealth of Kentucky and is sold both to Kentucky residents and residents of other jurisdictions, the Attorney General may accept a bond as described in subsection (1) of this section equal to the pro rata share of improvements for that property that is reasonably anticipated to be sold to Kentucky residents.
- (3) In lieu of the bonding requirements appearing in subsection (1) of this section, a subdivider may, with the approval of the Attorney General, place in an approved escrow account fifty percent (50%) of receipts of sales of the subdivided lots until the amount necessary to make the improvements has been accumulated or the improvements advertised by the subdivider made and the suppliers of labor and material paid. If the improvements are not made within a reasonable time as determined by the Attorney General, the escrow account, after hearing, shall revert to the benefit of the subdivision purchasers.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 209, sec. 5, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 194, sec. 1, effective July 15, 1988. -- Created 1978 Ky. Acts ch. 316, sec. 3, effective June 17, 1978.