

2860.1800 IMPOUNDMENTS.

Impoundments:

A. The commissioner shall be a party to any impoundment agreement imposed as a condition of registration under Minnesota Statutes 1973 Supplement, section 80C.05.

B. When an impoundment is imposed under Minnesota Statutes 1973 Supplement, section 80C.05, 100 percent of franchise fees and all other funds paid by the franchisees or subfranchisors located in Minnesota for any purpose shall, within two business days of the receipt of such funds, be placed with the depository until the commissioner takes further action pursuant to Minnesota Statutes 1973 Supplement, section 80C.05. All checks shall be made payable to the depository.

C. When an impoundment is imposed under Minnesota Statutes 1973 Supplement, section 80C.05, the franchisor shall deliver to each franchisee or subfranchisor a purchase receipt, in a form approved by the commissioner. Such purchase receipts shall be consecutively numbered and prepared in triplicate with the original being given to the franchisee or subfranchisor, the first copy to the depository together with the payment received, and the second copy retained by the franchisor.

D. Funds subject to any impoundment imposed under Minnesota Statutes 1973 Supplement, section 80C.05, shall be placed in a separate trust account with a bank located in Minnesota. A written consent of the depository to act in such capacity shall be filed with the commissioner.

E. Prior to complete performance the commissioner shall authorize in writing the depository to release to the franchisor such amounts of the impounded funds applicable to a specified franchisee (or subfranchisor) upon a showing that the franchisor has fulfilled its obligations under the franchise agreement or that for other reasons the impoundment is no longer required for the protection of the franchisee.

F. An application to the commissioner authorizing the release of impounded funds to the franchisor shall be verified and shall contain:

(1) a statement of the franchisor that all funds required to be impounded by Minnesota Statutes 1973 Supplement, section 80C.05, have been placed with the depository in accordance with the terms and conditions of the impoundment;

(2) a statement of the depository signed by an appropriate officer setting forth the aggregate amount of impounded funds placed with the depository;

(3) the names of each franchisee (or subfranchisor) and the amount held in the impoundment for the account of each franchisee (or subfranchisor);

(4) a statement that the franchisor, with respect to each franchise the funds for which are sought to be released, has completely performed obligations,

cited by reference to the franchise agreement and its provisions, to provide real estate, improvements, equipment, inventory, training, or other items; and

(5) such other information as the commissioner may reasonably require.

Statutory Authority: *MS s 80C.18*

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