



GOVERNOR'S OFFICE OF CONSUMER PROTECTION

April 22, 2015

Billing Company Jurisdiction over Pre-sale Contracts

As many of you know, a gym may obtain written approval from the Administrator to sell memberships to consumers before the gym becomes fully operational and available for use. In order to be approved for a pre-sale, the gym must submit forms prescribed by the Administrator requiring whatever information the Administrator may determine. The gym must also agree in writing, on forms prescribed by the Administrator, to deposit all funds obtained during the pre-sale into a single account in a bank or trust company domiciled in the State of Georgia. No funds shall be released from the account, to any person, unless the Administrator has certified in writing to the bank or trust company that the gym is fully operational and available for use.

After the gym has received a permanent Certificate of Occupancy and has provided all of the required documents to this office at the pre-sale inspection, a written statement will be issued by the Administrator or his designee which will certify to the bank or trust company that the gym is fully operational and available for use and, that all funds held in trust may be released to the gym.

While the Administrator's letter will certify to the bank or trust company that the gym is fully operational and available for use and that all funds held in trust may be released to the gym, it will also serve as the final notification to the gym that its pre-sale period has ended. A third party, such as a billing company, has no authority to terminate a presale or determine when a pre-sale ends. The Fair Business Practices Act empowers the Administrator with the authority to approve and terminate a pre-sale. Consequently, a gym and its pre-sale contracts must remain in pre-sale status until the pre-sale inspection takes place and the Administrator certifies that the pre-sale has ended.

As always, please feel free to contact us with questions on these or other matters.

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