

**TITLE 3: HUMAN RESOURCES**  
**DIVISION 4: EMPLOYMENT AND REGISTRATION**

**§ 4924. Approved Security Contract.**

(a) Prior to commencement of work by a foreign national worker, an employer shall submit to the Secretary an approved security contract providing financial assurance, in an amount acceptable to the Secretary, for the faithful performance of the obligations of the employer under the approved employment contract and Commonwealth law with respect to the employment of foreign national workers.

(b) After the commencement of operation of the LTARF as provided in subsection (e) of this section, the approved security contract must be in one of three forms:

(1) Bonding by contract with a bonding company carrying a national rating in the United States and approved by the Secretary;

(2) Bonding by contract with a bonding company approved by the Secretary and within an allotment established by the Secretary for that company for a specified number of foreign workers based on the financial assets of the company, the estimated total repatriation costs plus an estimated amount to meet other obligations of the employers to be covered by the company's financial assets, and other relevant factors as provided by regulation; or

(3) Trust account coverage by direct contract with the Department for payment for each foreign national worker into an account maintained by the Department, provided however that only employers with no outstanding unpaid amounts due the trust account or judgments arising out of Department proceedings more than sixty days in arrears, except those pending appeal, are eligible for trust account coverage. The total amount paid into the trust account by an employer must cover the estimated total repatriation cost for the foreign worker plus an estimated amount to cover other obligations of the employer. If a foreign national worker is repatriated by the employer and the Department determines that there are no outstanding obligations of the employer with respect to that worker, the amount paid into the trust account with respect to that worker shall be repaid by the Department to the employer less an amount, as determined by the Secretary, to reimburse the Department for its actual administrative costs; such costs shall not exceed 4% of the amount deposited by the employer.

(c) Each approved security contract shall include the term "Department of Labor surety." An instrument including the term "Department of Labor surety" is payable up to the full amount, without regard to any limiting terms, notice, attendance at hearing, or any other procedural requirement, immediately upon issuance of a final order or judgment by a hearing officer, the Secretary, or a court of competent jurisdiction arising out of any Department proceeding.

(d) Any default on an approved security contract shall require the Department to publish an appropriate notice that the defaulting person or corporate entity is no longer acceptable to the Department. An employer that is a party to any approved security contract with such defaulting person or entity must provide the

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Department with a substitute approved security contract within sixty days of receipt of notice or forfeit the privilege of employing foreign national workers.

(e) There is hereby created the Labor Trust Account Revolving Fund (LTARF) which shall be accounted for separately from the General Fund.

(1) All monies received as payments under contracts provided for in subsection (b)(3) above shall be deposited into the LTARF.

(2) Expenditure authority over the LTARF is vested in the Secretary. Monies in the revolving fund shall be available without appropriation by the Legislature and shall be used to pay judgments for repatriation, unpaid wages, and other damages against employers arising out of Department proceedings with respect to foreign national workers, which remain unpaid by employers or their bonding companies after sixty days or as provided by regulation. The Department shall have a right to proceed against any such employer or bonding company in the place of the foreign national worker to whom or on whose behalf payments were made from the revolving fund. Any balance remaining from funds collected under subsection (b)(3) shall be refunded to the employer in accordance with that subsection.

(3) Any interest earned on the LTARF shall become part of the fund.

(4) With respect to the management of the LTARF and the expenditures made from it, the Department is exempt from Title 1, Division 7, Part 1, Chapters 1 through 7, 1 CMC §§ 7101 et seq.

**Source:** PL 15-108, § 4(4924); PL 17-1 § 5(Q)(2)(e) (March 22, 2010),\* modified.

**Commission Comment:** The Commission deleted figures that repeated written words in the above section pursuant to 1 CMC § 3806(e). \*PL 17-1 (enacted on March 22, 2010) contained the following effective date provision:

Section 12. Effective date. This Act shall take effect upon its approval by the Governor or becoming law without such approval and shall be retroactive to November 28, 2009 except as otherwise specifically provided herein.

For more information regarding Public Law 17-1, see comment to 3 CMC § 4511.