

TITLE 227 - DEPARTMENT OF LABOR

CHAPTER 17 - ENFORCEMENT ACTION AGAINST THE BOND OR DEPOSIT

001. This chapter is adopted pursuant to Neb. Rev. Stat. §48-1708.
002. Any person not paid wages owed to him/her by a farm labor contractor or any farmer not paid advances due them by the farm labor contractor has a right of action against the surety on the bond or deposit with the Commissioner. The individual may exercise this right or may assign this right to another.
003. The action on the bond or on the deposit held by the Commissioner may not be joined in a suit or action on the bond or against the Commissioner brought for any other claim.
004. Any person seeking to recover on the bond or from the deposit with the Commissioner must first establish the licensee's liability. The liability may be established in any of the following ways:
- A. A final judgement of state or federal court;
  - B. A final administrative order issued pursuant to statute or rule;
  - C. The acknowledgement of the contractor of such liability;
  - D. Other satisfactory evidence of liability as may be shown which established the liability.
005. Claims against the bond or deposit will not be paid unless, within six (6) months after the end of the license year to which the bond or deposit applies, the claimant or claimant's assignee gives notice of the claim by certified mail to the surety and the Commissioner.
006. Any claim or notice of claim filed pursuant to a claimant's right of action must be filed as follows:
- A. If the filing is against a surety bond, the claim or notice must be filed with the surety and the Commissioner. Such filing must be by certified mail;

- B. If the filing is against a deposit held by the Commissioner, the claim or notice must be filed with the Department by certified mail.
007. The Commissioner and the surety shall make payments on the bond or deposit in the following priority:
- A. Payments on wage claims;
  - B. Payments on advances made to or on behalf of the contractor by a farmer or an owner or lessee of land intended to be used for the production of crops;
  - C. If there are insufficient funds to pay all wage claims in full, such claims will be paid in part;
  - D. If there are insufficient funds to pay advances in full after all wage claims are paid, such advances will be paid in part.
008. In order to insure that all wage claims will be accorded priority treatment, the Commissioner may delay any payments for advances claimed, until the expiration of the time within which wage claims may be submitted. The Commissioner may make conditional payment based upon adequate security that subsequent wage claims will be paid.