

WSR 23-13-097
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed June 20, 2023, 10:26 a.m.]

Title of Rule and Other Identifying Information: Contractor registration rules; WAC 296-200A-041 When will the department deny an application for registration, renewal or reinstatement?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited rule making proposes amendments to the conditions for denying a contractor's application for registration, renewal, or reinstatement under WAC 296-200A-041. The amendments to the rule are required to implement 2SHB 1534, chapter 213, Laws of 2023. 2SHB 1534 establishes new conditions for denial of contractor registrations when an applicant is a successor to a business entity with unsatisfied final judgments and for minor status. The provisions take effect July 23, 2023. This expedited rule making proposes amendments for uniformity with the statute.

Specifically, the proposed rule:

- Adds language that a contractor's application for registration, renewal or reinstatement must be denied if:
 - o The applicant is under 18 years of age at the time of application; or
 - o The applicant is a successor to an entity that has an unsatisfied final judgment against it for work performed under chapter 18.27 RCW or owes money to the department of labor and industries (L&I) for assessed penalties or fees as a result of a final judgment.
- Allows an exception for denial of a registration for successors to an entity with unsatisfied final judgments.
- Includes amendments for housekeeping to renumber subsections.

Reasons Supporting Proposal: 2SHB 1534 passed the legislature this year and was signed into law. The statute amends and adds new sections under chapter 18.27 RCW with various effective dates. L&I plans to develop rules over several phases of rule making for consistency with the statute. This rule making is the first phase.

Statutory Authority for Adoption: 2SHB 1534, chapter 213, Laws of 2023; and chapter 18.27 RCW.

Statute Being Implemented: 2SHB 1534, chapter 213, Laws of 2023; and chapter 18.27 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Melissa McBride, Program Manager, Tumwater, Washington, 360-902-5571; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate as the amendments result from 2023 legislation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Alicia Curry, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-6134, email Alicia.Curry@Lni.wa.gov, AND RECEIVED BY August 21, 2023.

June 20, 2023
Joel Sacks
Director

OTS-4639.2

AMENDATORY SECTION (Amending WSR 09-10-079, filed 5/5/09, effective 6/5/09)

WAC 296-200A-041 When will the department deny an application for registration, renewal or reinstatement? The department shall deny an application for registration, renewal or reinstatement if:

- (1) The applicant does not submit the required documents on the forms required by the department.
- (2) If the documents are false or incomplete.
- (3) The documents do not have the legal name of the contractor as documented on official governmental issued photo identification.
- (4) The applicant is under 18 years old at the time of application.
- (5) The applicant does not have a valid unified business identifier number, if required by the department of revenue.
- ~~((5))~~ (6) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment.
- ~~((6))~~ (7) The applicant was an owner, principal, or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment.
- ~~((7))~~ (8) The applicant is a successor to an entity with an unsatisfied final judgment against it in an action that was incurred for work performed subject to chapter 18.27 RCW or owes the department money for penalties assessed or fees due under chapter 18.27 RCW as a result of a final judgment, unless the applicant demonstrates by a preponderance of the evidence that the applicant did not know of the unsatisfied final judgment, by having exercised due diligence and

timely verifying with the department that the other contractor was in good standing, then the department may grant the application for registration under RCW 18.27.030.

(9) The applicant has not complied with a department of social and health services - support enforcement division support enforcement order.

[Statutory Authority: Chapter 18.27 RCW and 2008 c 120. WSR 09-10-079, § 296-200A-041, filed 5/5/09, effective 6/5/09.]