

WSR 23-21-052
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 10, 2023, 4:54 p.m.]

Subject of Possible Rule Making: Contractor registration rules; WAC 296-200A-015 What terms do I need to know to understand this chapter?, 296-200A-030 How much are the surety bond or savings account amounts?, 296-200A-080 How is a suit filed against a contractor?, 296-200A-400 What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.040, 18.27.100, 18.27.110, 18.27.114 or 18.27.200?, and 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?

Statutes Authorizing the Agency to Adopt Rules on this Subject: 2SHB 1534, chapter 213, Laws of 2023, and chapter 18.27 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making considers amendments to the contractor registration rules. The amendments affect the definitions, penalty and bond amounts, and fees for general and specialty contractors. The amendments are necessary due to the passage of legislation and to support operating expenses for the contractor registration program (program).

2023's 2SHB 1534 (chapter 213, Laws of 2023) helps to strengthen protections for consumers in the construction industry. Provisions of the bill increase fines, penalties, and bond amounts for contractors. These provisions take effect July 1, 2024.

2019's SB 5795 (chapter 155, Laws of 2019) increases bond requirements for contractors. The law gives the department of labor and industries (L&I) the authority to require up to three times the normal bond amount if there has been one judgment against a contractor involving a residential single-family dwelling. The law took effect July 28, 2019.

The rule amendments under consideration include:

- Increasing fees by the fiscal growth factor.
- Making amendments for consistency with the statutory amendments under 2SHB 1534. This includes:
 - o Defining the meaning of "due diligence" related to a successor of an entity verifying the entity is in good standing related to unsatisfied final judgment against it for work performed under chapter 18.27 RCW or owes money to L&I for assessed penalties or fees as a result of a final judgment.
 - o Increasing surety bond amounts for general and specialty contractors.
 - o Increasing the monetary penalty amounts for infractions by contractors.
- Making amendments to contractor bond requirements for final judgments for consistency with the statutory amendments under SB 5795.
- Making amendments for updates and clarification. This includes:
 - o Clarifying the existing filing fee for suits against a contractor.
 - o Clarifying the requirements for collection of penalties from a contractor and payments of restitution.

This rule making also considers increasing fees by the fiscal growth factor, including updates and clarification amendments. The fees affected include the issuance, renewal, reregistration, and reinstatement of registration certificates, and other services for contractor registration. The current fee levels are not adequate to cover current program expenses. A fee increase will ensure the program's revenues match expenditures.

Process for Developing New Rule: Interested parties can participate in the decision to adopt the new rules and formulation of the proposed rules before publication by contacting the individual listed below. The public can also participate after amendments are proposed by providing written comments and/or testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting 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, website <https://www.lni.wa.gov/rulemaking-activity/>.

October 10, 2023
Joel Sacks
Director