

WSR 23-17-145
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 22, 2023, 9:55 a.m., effective August 22, 2023]

Effective Date of Rule: August 22, 2023.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: As permitted by RCW 34.05.380 (3)(a), immediate implementation is necessary for uniformity with 2SHB 1534, chapter 213, Laws of 2023.

Purpose: This rule making adopts conditions for denying a contractor's application for registration, renewal, or reinstatement under WAC 296-200A-041. 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 took effect July 23, 2023. This rule making adopts amendments for uniformity with the statute.

The adopted rule:

- Allows a contractor's application for registration, renewal, or reinstatement to 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 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.

Citation of Rules Affected by this Order: Amending WAC 296-200A-041.

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

Adopted under notice filed as WSR 23-13-097 on June 20, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 22, 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.