Audio file

audio1860163806.m4a

Transcript

00:00:00 Tom Wu

October 22nd.

00:00:03 Tom Wu

2026 and the time it's 10:00 AM this is public rules making meetings for Washington administrative code WAC 4582118 sell or rental of real estate license to use real estate and WAC 45820.

00:00:23 Tom Wu

182 warehouse and other storage businesses Please note that this meeting is being recorded.

00:00:31 Tom Wu

My name is Tom Wu and my last name is spelled as Douglas whiskey us umbrella I'm the tax policy specialist with the interpretations and technical advice division also known as ITA for the Department of Revenue I will be the facilitator for this meeting also in attendance.

00:00:51 Tom Wu, DOR

From the Department of Revenue are Cassie holder in her role as management analysis.

00:00:59 Tom Wu, DOR

Cassie will be monitoring our recording equipment as this meeting is being recorded.

00:01:06 Tom Wu, DOR

And Paris summons in her role as role coordinator.

00:01:14 Tom Wu, DOR

We are conducting this public meeting remotely through zoom participants here's our joints through zoom as well as through telephone calls we do not have other parties physically present for this meeting.

00:01:29 Tom Wu, DOR

Thank you for taking the time to attend this meetings and providing us with valuable feedbacks concerning the rulemaking activities for WAC 4582118 and WAC for 582182 Please note we are best we are.

00:01:48 Tom Wu, DOR

Was able to consider your comments when you provide it to us in writing which can be sent to me at TomWu2@DOR.WA.GOV.

00:02:09 Tom Wu, DOR

The legal authority for this meeting is from chapter 34.05 RCW title and administrative procedures act.

00:02:20 Tom Wu, DOR

This meeting was announced through publications in the Washington state register as WSR 2615125 on July 21st 2026 and by notification to interested persons.

00:02:40 Tom Wu, DOR

The purpose of this meeting is to gather comments from the public's prior to taking action to propose abandon to WAC for 582118 and WAC 4582182 title sell or rental of Real estate license to you real estate and warehouse and other storage businesses referred to in this meeting as rule 118 and 182.

00:03:13 Tom Wu, DOR

118 and 182.

00:03:18 Tom Wu, DOR

We emphasize that the rule drive has now written is provided for discussion purposes only.

00:03:24 Tom Wu, DOR

We will consider any comments received relating to the proposed amendment to roll 118 and 182.

00:03:34 Tom Wu, DOR

We appreciate receiving written comments and we'll evaluate all comments as we proceed with the rulemaking process.

00:03:43 Tom Wu, DOR

We request you send written comments to my attention.

00:03:48 Tom Wu, DOR

Tom Wu at e-mail address.

00:03:52 Tom Wu, DOR

TOMW two@dor.wa.gov in this way the department can fully consider your comments before proceeding with future rulemaking activities.

00:04:06 Tom Wu, DOR

Now let me briefly outline the rule making process and where we are in respect to this rule.

00:04:16 Tom Wu, DOR

A CR 105 expedited rulemaking proposal was filed to amend WAC for 582118 and WAC 4582182 on July 21st.

00:04:30 Tom Wu, DOR

2 is about 2026 on September 182026 the department received a written objection to the expedite rulemaking process for this rule.

00:04:41 Tom Wu, DOR

Under rcw 3405353 subsection 8.

00:04:47 Tom Wu, DOR

When a written objection to expedite rulemaking is timely received the agency may not adopt the role using the expedite process accordingly the department has converted this rule making from expedited rulemaking to standard rule making.

00:05:06 Tom Wu, DOR

As part of the process.

00:05:08 Tom Wu, DOR

The department will proceed with the appropriate public notice and comment procedures including holding a public meeting filing a CR 102 proposed rulemaking notice and holding a public hearing.

00:05:24 Tom Wu, DOR

The first step in the process is to file a pre proposal with the office of the code revisor to announce a public meeting facilitation of comments regarding possible changes to the rule.

00:05:39 Tom Wu, DOR

The notice code form pro 101.

00:05:43 Tom Wu, DOR

Is published in the state register and announced through mailings to interested persons

00:05:50 Tom Wu, DOR

When an objection to expedited rule making is received the CR 105 notice of expedited rulemaking is treated as a CR 101 pre proposal

00:06:01 Tom Wu, DOR

The public meeting for the role is today October 22nd 2026.

00:06:11 Tom Wu, DOR

The next step to file a notice of proposed rulemaking with the office of the code reviser to announce a public hearing on the proposed rule.

00:06:22 Tom Wu, DOR

This notice called form CR 102 is also published in the state register and announced through mailings to interested person.

00:06:31 Tom Wu, DOR

The purpose of this hearing is to receive further public comments regarding the proposed change to the rule.

00:06:39 Tom Wu, DOR

All public comments will be fully evaluated as we proceed in the rulemaking process.

00:06:45 Tom Wu, DOR

Any comments received will be kept by the interpretations and technical advice divisions in the permanent rulemaking file.

00:06:57 Tom Wu, DOR

The final step is to adopt the revised rule.

00:07:01 Tom Wu, DOR

This is not a public process but simply requires that we submit the final draft of the rules to the office of the code revisor using form CR 103 the rule making order with the appropriate forms.

00:07:17 Tom Wu, DOR

The revised rule will be effective shortly thereafter and will be published in the Washington state register.

00:07:25 Tom Wu, DOR

Now I will outline the proposed update to the WAC 4582118 and 182.

00:07:37 Tom Wu, DOR

The proposed amendments to the rule 118 primarily clarify and updated the rules regarding the sale or rental of real estate and license to use real estate.

00:07:52 Tom Wu, DOR

The proposal also removed reference to mini storage facilities these changes include updating and removing statutory and rule reference simplifying simplifying and clarifying language and making minor and formatting changes.

00:08:09 Tom Wu, DOR

The proposed amendment to rule 182 update the rules to reflect change in the tax treatments of self service store storage facilities effective April first 2026.

00:08:24 Tom Wu, DOR

The amendments also update the example 5 about the self-service storage rental and the result of the new B&O tax treatment.

00:08:34 Tom Wu, DOR

The amendment clarified that beginning April first 2026 the sale of.

00:08:42 Tom Wu, DOR

Real estate does not include the gross proceeds derived from individual storage space rentals or leases for 30 days or longer at a self-service storage facilities as defined in RCW 19.150.

00:09:02 Tom Wu, DOR

010.

00:09:07 Tom Wu, DOR

We will now proceed to the common portion of this meeting.

00:09:13 Speaker 1

If you have a comment please use the react functions on zoom for those on the phone I will ask if you have any comments in the at the end.

00:09:24 Tom Wu, DOR

Once I called your name please identify yourself and who you are.

00:09:30 Tom Wu, DOR

Representing before commenting for the record.

00:09:39 Tom Wu, DOR

Please note we also appreciate receiving testimony in writing.

00:09:44 Tom Wu, DOR

If you have written testimony and could send us your oral testimony in writings after this meeting please submit your comments via e-mail to TOMW 2 at Dor dot WA.

00:10:01 Tom Wu, DOR

Dot GLV so we can keep your comments in the departments permanent rules making files for role 118 and 182.

00:10:14 Tom Wu, DOR

All right we now proceed with the public comments.

00:10:27 Tom Wu, DOR

Lance Baker.

00:10:31 Lance Baker, WA State Self-Storage Association

Hi good morning.

00:10:33 Lance Baker, WA State Self-Storage Association

Yes my name is Lance Baker I represent the Washington state self storage association we cater to operators businesses in the self storage industry and and owners we've got about 340 members in the state of Washington and our we have a couple concerns.

00:10:52 Lance Baker, WA State Self-Storage Association

Our primary concern is.

00:10:55 Lance Baker, WA State Self-Storage Association

That the department rules goes beyond the legislative the legislation enacted in ESB 7594.

00:11:04 Lance Baker, WA State Self-Storage Association

The we we believe the new rule should be drafted more narrowly.

00:11:10 Lance Baker, WA State Self-Storage Association

ESB 705794 does not change the definition of rental of real estate and any amendments to DOR 's tax rules should not either.

00:11:21 Lance Baker, WA State Self-Storage Association

Removing the rental of self storage facilities from the definition of rental of real estate could unintendedly have consequences and cause confusion because that term is connected to sales tax.

00:11:34 Lance Baker, WA State Self-Storage Association

It's connected to capital gains tax.

00:11:37 Lance Baker, WA State Self-Storage Association

Our rental income of a property that is protected by the state and federal constitution due process clause.

00:11:45 Lance Baker, WA State Self-Storage Association

Which references RHA versus city of Seattle and US versus James Daniel good real property.

00:11:54 Lance Baker, WA State Self-Storage Association

And the status also impacts the statute itself the RCW 19.15 0.010.

00:12:04 Lance Baker, WA State Self-Storage Association

So.

00:12:06 Lance Baker, WA State Self-Storage Association

Just to be clear that right now under department of revenues owned definition or standards to meet to be qualified as the rental real real estate self storage meets all those needs.

00:12:21 Lance Baker, WA State Self-Storage Association

UM.

00:12:22 Lance Baker, WA State Self-Storage Association

Those include the rental period exceeding 30 days.

00:12:27 Lance Baker, WA State Self-Storage Association

The exclusive use of the storage space the continuous possession of a storage space dominion of control those are all in control of the leaseholder and there is a landlord tenant relationship so that definition falls under the rental of real real real property real real estate.

00:12:48 Lance Baker, WA State Self-Storage Association

And we think that should be considered.

00:12:53 Lance Baker, WA State Self-Storage Association

And we are also asking that.

00:12:57 Lance Baker, WA State Self-Storage Association

That is small business economic impact statement is completed.

00:13:02 Lance Baker, WA State Self-Storage Association, WA State Self-Storage Association

Our industry we have about 20% according to the national demand study 20% of storage users are small businesses they're.

00:13:17 Lance Baker, WA State Self-Storage Association

Examples can be plumbers landscapers.

00:13:21 Lance Baker, WA State Self-Storage Association

Online retailers those are just a few of the examples.

00:13:27 Lance Baker, WA State Self-Storage Association

And also in the state of Washington there's about 1800 self storage facilities.

00:13:35 Lance Baker, WA State Self-Storage Association

About 53% of those facilities are single store operators.

00:13:41 Lance Baker, WA State Self-Storage Association

Another 10% of those are small family businesses with 2 to 3 stores.

00:13:48 Lance Baker, WA State Self-Storage Association

So this is going to impact a lot of small businesses in our industry we think it's important that that economic impact is is.

00:13:57 Lance Baker, WA State Self-Storage Association

Is completed

00:13:59 Lance Baker, WA State Self-Storage Association

So.

00:14:01 Lance Baker, WA State Self-Storage Association

We request that in details there's a cost of compliance for small businesses.

00:14:07 Lance Baker, WA State Self-Storage Association

Whether rule compliance is will cause businesses to lose sales or revenue whether the cost impact will fall disproportionately on small businesses.

00:14:18 Lance Baker, WA State Self-Storage Association

In an estimate of the number of jobs that will be created or lost in accordance to this.

00:14:25 Lance Baker, WA State Self-Storage Association

So that's my comments if there's any questions I'd be happy to answer them.

00:14:33 Tom Wu, DOR

Thank you for your comment.

00:14:36 Tom Wu, DOR

The next one.

00:14:38 Tom Wu, DOR

Joe Doherty.

00:14:42 Tom Doherty, National Self-Storage Association

Yes thank you Tom my name is Joe Doherty I'm with the national self storage association we're in Alexandria Virginia and work alongside the Washington self storage association and representing the interests of self storage owners and operators in the state of Washington.

00:14:59 Tom Doherty, National Self-Storage Association

I want to expand on one point that Mister Baker made and then go into a different point as well in terms of.

00:15:06 Tom Doherty, National Self-Storage Association

The economic impact on small businesses our association conducts a self storage demand study every 2 years and we have a section of that study that I I will share in written comments as well that outlines the small businesses that use self storage facilities.

00:15:27 Tom Doherty, National Self-Storage Association

As as Mister Baker pointed out it's about 20% of the the the customer base or small businesses.

00:15:34 Tom Doherty, National Self-Storage Association

And they they store items from the landscapers storing vehicles Healthcare is another major user of of self storage storing yeah items that yeah maybe pharmaceutical sales reps and and you know folks of that nature who might.

00:15:54 Tom Doherty, National Self-Storage Association

Might have items that they need to display to doctors and other medical offices.

00:15:59 Tom Doherty, National Self-Storage Association

Is as well as the storage of paper records or excess inventory perhaps for an online retailer or even a brick and mortar store so it's it's a a major component of our business to serve these other small businesses and for that reason and the reasons Mister Baker laid out we believe it's

00:16:19 Tom Doherty, National Self-Storage Association

Critical for the department to undertake that economic impact study.

00:16:25 Tom Doherty, National Self-Storage Association

The other point I want to make relates to the categorization of self storage as real estate so that that is something.

00:16:33 Tom Doherty, National Self-Storage Association

That is established in Washington law in the RCW 19 150 010 defining self storage as real property we believe it goes beyond what the department needs to do to adopt the statute to.

00:16:53 Tom Doherty, National Self-Storage Association

Essentially say that self storage is not the rental of of real property as Mister Baker pointed out we we meet all of the definitions or all of the criteria under the department 's own rule for what is considered the rental of real property.

00:17:09 Tom Doherty, National Self-Storage Association

Additionally every other state that has considered this issue it's 49 other states or excuse me 48 other states have self storage statutes and every one of those states defines self storage as the rental of real property so to to say it's not in Washington would be stepping outside of the bounds of.

00:17:31 Tom Doherty, National Self-Storage Association

Of what other States and in fact the state of Washington have otherwise determined and then finally the.

00:17:40 Tom Doherty, National Self-Storage Association

The state of Washington is the only state that I'm aware of that has one of these B&O tax or gross receipts tax on the rental of or imposed on self storage operators I know that that doesn't go to you know the issue of what was passed by the legislature but I did want to point that out to say that.

00:18:00 Tom Doherty, National Self-Storage Association

Washington is already out of step in having this type of tax on self storage businesses.

00:18:06 Tom Doherty, National Self-Storage Association

And then to go a step further and and to say that self storage is no longer the rental of of real property would would move Washington even further out of step with.

00:18:17 Tom Doherty, National Self-Storage Association

Your 49 other companion states so that that's my statement as I mentioned before I will also provide this information.

00:18:25 Tom Doherty, National Self-Storage Association

In writing and I thank you for the opportunity to speak today.

00:18:33 Tom Wu, DOR

Thank you for your comment.

00:18:36 Tom Wu, DOR

Next one Patrick Gilroy.

00:18:42 Patrick Gilroy

Yes thank you thank you Mister Wu miss summons and the rest of the Department of Revenue individuals that are available at the hearing today I want to echo.

00:18:54 Patrick Gilroy

Mister bakers points regarding the definition and removing self storage from the definition of real estate and then classifying it essentially as services and reemphasize that those that could have unintended consequences that were not contemplated and part of the original legislation that was passed.

00:19:15 Patrick Gilroy

The TSB 5794 including an imposition services exposing real self storage as they use to sales tax.

00:19:26 Patrick Gilroy

And possibly capital gains tax which again was not contemplated as part of the original the original legislation secondly in support of the encourage our encouraging the Department of Revenue to consider a business economic small business economic impact statement.

00:19:46 Patrick Gilroy

Like to draw your attention to a recent Division 2 court ruling the ruled in favor of the plaintiff in part because DOR did not.

00:19:58 Patrick Gilroy

Issue that impacts statement and the court agreed and cited with the plaintiff that said that that was a material part of the case.

00:20:05 Patrick Gilroy

So that.

00:20:08 Patrick Gilroy

That's some of my comments thank you for the opportunity to speak today.

00:20:13 Tom Wu, DOR

Thank you for your comment.

00:20:17 Tom Wu, DOR

Is there anyone else who would like to share their comments?

00:20:33 Tom Wu, DOR

Without further comments I would like to proceed with the recapping the rule making process.

00:20:40 Tom Wu, DOR

This has been a public meeting for input regarding the proposed amendment for Washington administrative code WAC 4582118 sale or rental of real estate license to use through real estate and WAC 4582182 warehouse and other storage businesses.

00:21:02 Tom Wu, DOR

As a reminder the department will next review any comments we receive on this rule draft make changes as we needed and publish the proposed rules for public comment.

00:21:14 Tom Wu, DOR

Once the rule proposal is published the department will hold a public hearing on the proposed proposal to gather feedback from the public.

00:21:27 Tom Wu, DOR

Thank you for participating in this public meeting with us in this morning if you are not on the department 's rules notification list did not receive a notice of today's meetings directly from the department and you want to be kept informed of future.

00:21:45 Tom Wu, DOR

Or making activities related to this role please provide Cathy Holder with your name and e-mail address Cassie can be contact at CHC Ath at THYHATOR dor. wa.gov.

00:22:06 Tom Wu, DOR

The time is now 1023 and the public meeting for a rule 118 and 182 is now adjourned.