Rhode Island Association of REALTORS® & State-Wide MLS

April 27, 2026

Bethany M. Whitmarsh
Department of Revenue
1 Capitol Hill Providence, RI 02908
bethany.whitmarsh@tax.ri.gov.

RE: Comments on proposed 280-RICR-20-75-1 Non-Owner-Occupied Property regulations

Dear Ms. Whitmarsh:

On behalf of the Rhode Island Association of REALTORS® (RIAR), we respectfully submit these comments on the proposed regulations that are referenced above. RIAR represents more than 5,900 licensed real estate professionals who list, sell, lease, manage, and appraise residential and commercial real estate and who are committed to stable housing markets, to make Rhode Island a better place to call home.

RIAR commends the Division of Taxation for the efforts that it has made to interpret a first-of-its-kind state property tax. However, RIAR does have concerns about three key areas of the draft regulations and one issue that has not been addressed:

Section 1.5 Definitions
Inconsistent Treatment of Like Properties

(F) The Division of Taxation's proposed definition of residential property is "a property that is classified as residential by the town or city in which the property is located and assessed as such."
This means that property that is assessed and/or classified as "residential" can from municipality to municipality. References to "residential" in R.I.G.L. § 44-5-11 and the subsections that follow it range from 1- 5 units, 3 or fewer, six units and above, certain mixed use properties, mobile homes, and vacant land, depending on the municipality.

Relying on municipalities to define the threshold for a statewide tax can result in an unfair result where two properties with the same number of units, use, and assessed values could be treated differently based arbitrarily on how a town or city classifies it.

Since the non-owner occupied tax is a state property tax, RIAR recommends that the tax be applied consistently and predictably to the same types of property across the state by creating a state definition of "residential" instead of relying on a patchwork of municipal enabling legislation.

Section 1.9 Property Transfers:

Proration - According to proposed subsection B, the seller would be required to pay the non-owner occupied tax in full if the transfer takes place from December 30th – June 30th. Typically, local property taxes and utilities are pro-rated between buyers and sellers at real estate closings. If a closing were to take place on June 26th, the buyer would be responsible for a percentage of these local taxes and fees for several days through the end of June while the seller would be responsible for the rest. RIAR urges the Division of Taxation to allow this common practice for the statewide property tax as well.

Lien – A number of closing attorneys have asked whether the unpaid tax would create a lien on the property that could delay or prevent closings from taking place as well as create title issues. Even though unpaid taxes typically do create a lien, the statute and regulations are silent. This issue should be clarified either way.

Delayed response time - RIAR supports the Division of Taxation's proposal to create a new *Certificate of No Tax Due* form that property owners can request to document, prior to selling their residential property, that the non-owner occupied tax has been paid in full, similar to the municipal lien certificate that towns and cities provide to show that no taxes or fees are owed.

However, RIAR is concerned that giving the Division of Taxation a period of fifteen business days to respond to such requests is excessive and could cause delays in real estate closings. In contrast, R.I.G.L. § 44-11-29 requires the Division of Taxation to respond within five business days to a request for a Letter of Good Standing. Similarly, towns and cities are required to respond to a request for municipal lien certificate within five business days for a municipal lien certificate.

Impact on cash transactions - Cash transactions can close in as little as seven days. According to State-Wide Multiple Listing Service, in 2025, cash sales accounted for 21.65% of sales of single-family dwellings and 11.15% of 2 – 4-unit dwellings.

Shortening the request time - Few sellers will request a Certificate of No Tax Due prior to entering into a contract with a specific buyer. Also, if a Certificate is obtained too far in advance, lenders and closing attorneys could have concerns especially if the closing will take place on the cusp of a new tax year.

RIAR recommends that the Division of Taxation shorten fifteen business days to five business days.

According to State-Wide Multiple Listing Service records, 59 properties with 1 – 4 dwelling units sold for $1 million or more in 2025. This limited volume, even when assessed value is taken into account, should not impose an excessive burden on the Division of Taxation if a shorter response time were implemented.

Costs - The regulations should clarify whether the applicant would be required to pay a fee to obtain a Certificate and, if so, how much the fee would be.

Section 1.11 Application for Exemption

This proposed section requires property owners who wish to claim an exemption from the tax to "supply documentation" to the Division of Taxation. The absence of clear standards requires property owners to guess what might be acceptable documentation.

In addition, R.I.G.L. § 44-72-13 states that property owners must keep documents, including, but not limited to, rental agreements and bank statements, for a period of three years and make them available to the Division of Taxation "for inspection" but does not require them to file these documents.

Longer term leases - The Division of Taxation stated in a recent letter mailed to property owners that they "must attach a written lease agreement" to prove that their property is exempt from the non-resident withholding tax. Landlords who received those communications, expressed concern that the Division of Taxation would share these leases and other forms of rental agreements with other agencies to collect data on rent and specific provisions that different landlords use in the rental agreements. This is a real concern as rent control is on the brink of becoming a reality in Providence and beyond.

Month-to-month tenancies - Another challenge with requiring written leases, is that a number of tenants sign a one-year lease which automatically converts into a month-to-month tenancy if the tenant remains with the landlord's consent after the lease expires. These month-to-month agreements are rarely signed.

RIAR is concerned that requiring owners to file rental agreements with the Division of Taxation, could overstep by forcing landlords to change their business models.

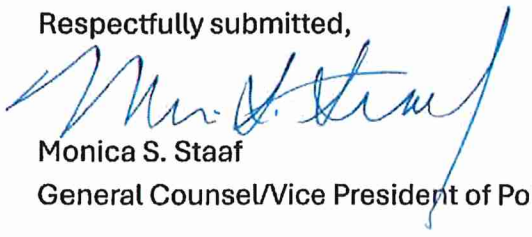
Short-term rentals - Short-term rentals can involve multiple agreements in the same year. Owners that use third party hosting platforms, such as Airbnb and VRBO, handle the reservations and account for the money. Would a screenshot or report from hosting platforms be sufficient to document that the property was rented for a specific amount of time?

Family members – It is not clear whether owners could qualify for an exemption if a family member, such as an adult son or daughter, lives in the property for 183 days or more without paying rent.

Alternative form - RIAR encourages the Division of Taxation to create an alternative form that property owners could use to confirm rental terms that could be signed under the pains and penalties of perjury and inspect written rental agreements when auditing a property owner.

In conclusion, the Rhode Island Association of REALTORS® appreciates the work that the Division of Taxation has done to educate property owners about the non-owner occupied property tax. We urge you to incorporate our recommendations into the final version of these regulations. Thank you for your consideration.

Respectfully submitted,



Monica S. Staaf
General Counsel/Vice President of Policy

May 6, 2026

Bethany M. Whitmarsh
Department of Revenue
1 Capitol Hill
Providence, RI 02908
bethany.whitmarsh@tax.ri.gov

Dear Assistant Tax Administrator Whitmarsh,

The proposed Rule RI 280-RICR-20-75 contravenes the letter and intent of the Non-Owner Occupied Property Tax Act in one obvious and important respect: how it defines "non-owner occupied property".

Statutory Construction

The definition the legislature chose, in R.I. Gen. Laws § 44-72-3(3), is:

> "Non-owner occupied" means that the residential property does not serve as the owner's primary residence ***and*** is not occupied by the owner of the property for a majority of days during a given taxable year"

(Emphasis added.). Given an ordinary reading of the conjunctive term "and", the statutory definition is clear and unambiguous that in order to be considered "non-owner occupied" under the act, two independent criteria need to be met: (1) the property does not serve as the owner's primary residence; ***and*** (2) the property is not occupied by its owner for a majority of days during a given taxable year. *See Jamestown School Commission v. Schmidt,* 405 A.2d 16 (R.I., 1979) ("Use of the conjunctive implies separate, as opposed to dependent, duties.").

It is understandable, given the title and purpose of the law, that the legislature would want to define "non-owner occupied" so as to exclude residences that are, in fact, occupied by their owners for a majority of the year, even if they do not serve as the primary residence for the owner. This may occur in a number of circumstances, such as when a group of adult siblings inherit a home from their parents. In this scenario, the siblings own it jointly, and it becomes a second home that they share by taking turns occupying it and sharing in the maintenance. It is not the primary residence for any of them, but collectively and as the owners of the property, they occupy it for more than half the year. The occupancy-based criteria for the term "non-owner occupied" (*i.e.*, after the word "and") addresses this type of situation.

By contrast, the definition in the proposed RI 280-RICR-20-75-1.5(B) is:

> "Non-owner occupied" means that the residential property does not serve as the owner's primary residence, ***which means*** the property is not occupied by the owner of the property for one hundred eighty-three (183) days or more during the privilege year.

(Emphasis added.). This proposed definition improperly changes the unambiguous statutory meaning by making the second half of the sentence merely a descriptor of the first half of the sentence, rather than an independent criteria. As noted above, there are two clear criteria in the statute. This alteration unnecessarily muddies the language.

In doing so, the proposed rule is also effectuating "surplusage", *i.e.*, a redundancy whereby the second half of the definition serves no purpose. Under the proposed rule, one could put a period after the words "primary residence" and delete the rest of the sentence and it would mean the same thing. The Rhode Island Supreme Court has recently emphasized that in interpreting a statute "we presume that the legislature intended every word to serve some purpose and have some force and effect." *Rhode Island Truck Center, LLC v. Daimler Trucks North America, LLC* (R.I. 2025). The proposed definition contravenes this principle by removing any effect of the second half of the sentence.

Documentation

The definition of "non-owner occupied" in the proposed rule is clearly designed for ease of administration - it is easy to determine whether a residence is the owner's primary residence based upon existing tax records. But ease of administration is not a valid basis for contravening the statute, and the Tax Division has yet to acknowledge that owner occupancy, without primary residency, is an independent basis for exempting a property from "non-owner occupied" status. As such, it has thus far failed to provide guidance on what documentation is sufficient to demonstrate owner occupancy of a property in the absence of it being the primary residence for any of the owners.

Instead, the tax division has proposed the following (s. 1.11(B)(1)):

> Such documentation shall prove that the property is the taxpayer's primary residence ***and*** that the owner(s) resides at the property for more than one hundred eighty-three (183) days each year, or that the property qualifies for an exemption.

(Emphasis added.). This reflects inverted reasoning: instead of "***and***", it should say "***or***" so that occupancy that is not based on primary residence, such as is contemplated by the law, can be demonstrated.

Conclusion

The definition of "non-owner occupied" in the Tax Division rules should not improperly alter the statutory definition - they should be the same. Moreover, the Tax Division rule should provide guidance on what documentation is sufficient to demonstrate occupancy where a residence is owner-occupied for the majority of the days in a year but is not the primary residence of any of the owners. Without having provided such guidance, the Tax Division should be flexible in accepting a variety of methods to demonstrate occupancy in these situations.

Best regards,

Deb Foppert
Archer & Foppert, LLP
57 Narragansett Avenue
Jamestown, RI 02835
401.423.2329

Bethany M. Whitmarsh

Department of Revenue

1 Capitol Hill Providence, RI 02908

bethany.whitmarsh@tax.ri.gov.

May 8, 2026

To the Department of Revenue:

I am writing to provide comment regarding the implementation of the **Rhode Island Non-Owner Occupied Property Tax** and to express serious concern about there being no **clarifying exemptions for non-winterized, seasonally used properties.** We see that Senator V. Susan Sosnowski introduced bill SB 2682 to address this, but we want to make sure that the Department of Revenue is cognizant of the extraordinary hardship that this new tax places on our property, and others like it.

Our family (mother and sisters) own a small, wood frame, one-story, unheated seasonal structure that has been in our family since the 1930s on East Beach in Watch Hill (Westerly, Rhode Island). This property has been in our mother's maternal family, spanning many generations and it has been shared amongst descendants of the initial owners, her grandparents. This building has been on site since the Hurricane of 1938, when the family's larger older structure was deemed unrepairable, and the current single floor structure was placed on the original home's foundation. My mother recalls being taken from the home during the hurricane (when she was 6 years old) and has returned to this cottage every summer ever since. The present building was also on the property as an adjacent 1,000 square foot two-bedroom cottage and the decision was made to move this to the site of the original, larger home. When this generation died (in 1979), they left it in equal measure to their descendants; my mother and her cousins shared it until 2012. At the time of Hurricane Sandy, my mother's cousins decided to sell their shares to my mother and we three daughters joined her in the ownership. As the current occupants with our mother since this time, we restored and have maintained the building after Hurricane Sandy, but it is not winterized and cannot be inhabited for 183 days/year. While its assessed value exceeds $1 million due to its location, the building itself is not winterized and is not suitable for year-round occupancy and the building and its assessed value and replacement value are significantly below that amount. (see this site: https://gis.vgsi.com/WesterlyRI/Parcel.aspx?Pid=13160).

The water supply is disconnected during colder months, and the property cannot be safely or reasonably inhabited outside of the summer season. My sisters and our families personally use the home during the summer and rent it when we are not present; however, it is not feasible for the property to be occupied for 183 days per year.

As currently described, the Non-Owner-Occupied Property Tax applies a uniform occupancy standard that does not account for the physical and structural limitations of certain properties. For non-Winterized coastal homes such as ours, compliance with the 183-day requirement is not simply difficult—it is impossible.

This creates several concerns with the tax law:

- **Structural Impossibility of Compliance:** Properties that are not winterized and cannot be occupied in colder months are effectively penalized for conditions beyond the control of their owners.

- **Mismatch Between Value and Use:** The high assessed value of coastal properties reflects location rather than usability or modernization, resulting in disproportionate tax impact on modest seasonal homes. Our property has been reassessed many times in the last twenty years, and we have maintained the home, but not changed it. Thus this reflects the value of the location and not the structure.
- **Failure to Distinguish Property Types:** The current framework does not differentiate between second homes, vacant properties and family-owned seasonal homes. It seems unfair to assess a property tax on home values to generate income to solve an issue of insufficient market access to year round housing stock, when the housing being assessed is not suitable for the year round use that the tax requires.
- **Unintended Environmental Consequences:** The policy may incentivize inappropriate modification of environmentally sensitive coastal properties. The property next to our cottage was a similar small footprint wooden structure for decades; when the owner died, the family sold the property and now a substantially larger structure was placed on the footprint. This has impacted the sand dunes, water table, and beach side construction; erosion of bird nesting areas and lack of seasonality of the sand movement have been negative impacts on the East Beach. If properties like ours must pay extensive extra tax based on value of the location, it is almost certain that modest homes will be demolished in favor of more expensive and larger properties to attract the means to finance the taxes, but this will have the unintended environmental consequences we see in our neighbor's property.

We strongly urge the Department to adopt further exemptions to the tax law – excluding properties which are:

- Non-insulated, non-winterized properties
- Are only able to be used seasonally
- Have ongoing long-term family ownership (which does not reflect removing housing stock from public opportunity)
- Are in geographically fragile areas where a larger structure would negatively impact environmental conditions.

These requested exemptions reflect the real-world conditions of many Rhode Island summer homes like ours.

Thank you for your consideration and for your attention to the unique circumstances of Rhode Island's coastal communities.

Respectfully submitted,

Patricia Holt, Christina Holt, Victoria Holt, Rebecca Holt Fine

12 Aloha Road, Watch Hill, RI

April 27, 2026

To: Department of Revenue
Ms. Bethany M. Whitemarsh
1 Capitol Hill
Providence RI. 02908

Dear Ms. Whitemarsh,

I am submitting this letter as public concern for the proposed tax increase effecting all non full time residents of RI with property valued over one million dollars.

We have owned property in Newport since 2006. In 2014 we built our dream house and lived and worked full time.
Once able to retire at age 67 we reached a lifelong goal of living part of the year in Florida.
A goal shared by many Americans.

Several years ago, Newport began taxing us at a secondary higher tax bracket. The additional funds did not go into the city budget but instead reverted directly back to a decrease in tax for full time residents.
Many residents expressed their joy and scoffing to us via social media sites. It did not feel good.

Now (in addition) the State plans to do the same on top of Newports already two tier tax bracket.

Clearly constitutionally this is taxation without representation times two now.

We can no longer bear the burden to stay in our home because of the taxes.

Please consider the implications of your actions. We love Newport . It is our home. We love Rhode Island. It is our home. We had planned to live out our last days here. Greed is taking that away from us.

Respectfully,

Patricia Geoffroy

Whitmarsh, Bethany (DOR)

From: William Adams IV <william.adams.iv@gmail.com>
Sent: Friday, May 1, 2026 3:52 PM
To: Whitmarsh, Bethany (DOR)
Subject: Comments on H-6189 Non-Owner Occupied Property Tax Act

To: Bethany Whitmarsh

There are thousands of families, whether residents or non-residents of the State of Rhode Island that have owned a summer cottage in the State. Many have owned their summer cottages for generations. A large number of these summer cottages were designed to be used exclusively during the summer months, thus the name. They are not well insulated, do not have heat, and even if some do, owners drain the water from all the pipes to prevent burst pipes during the winter. These summer cottages are therefore uninhabitable, from mid-October until mid-May or approximately 210 days of the year.

Under the provisions of the proposed Non-Owner Occupied Property Tax, the owner of a summer cottage that is uninhabitable for 210 days of the year, cannot avoid paying the tax under any of the current exemptions that require that the property be rented for at least 183 days. This is egregiously unfair. Many of the owners of summer cottages must rent them for several months during the summer just to cover property taxes which are already very high based on the high assessed value of the cottage, which is almost entirely driven by the value of the land, not because it is a fancy home. The Non-Owner-Occupied Property Tax would place a significant financial burden on these owners and could require them to sell a cottage their family has been visiting for generations.

A potential solution to this problem is to add an exemption for

homes that are uninhabitable during a majority of the year (more than 183 days). Owners of a summer cottage could prove the cottage is uninhabitable by showing the taxing authorities when their municipality removed and reinstalled their water meters, something the State could easily check itself. I think everyone would agree that a home with no running water or heat would indeed be uninhabitable.

I hope the legislature does the right thing and amends the proposed law to provide an exemption for summer cottages like the ones described above. You can look through the G.I.S. map of various towns in Rhode Island and you will see many summer cottages along the beach that are very modest, have no heat, and are valued at over $2 million. 90% of the value is the value of the land. The cottages are not owned by wealthy people, just regular folks that inherited the cottage from their parents or grandparents. Those owners would now be facing an additional tax of $5,000 or more. I can't believe that is what the legislature intended.

Respectfully,

William Adams IV
Westerly, Rhode Island
William.adams.IV @gmail.com [gmail.com]

Whitmarsh, Bethany (DOR)

From: Paul Harrison <paulharrisonteam@gmail.com>
Sent: Thursday, April 16, 2026 1:40 PM
To: Whitmarsh, Bethany (DOR)
Subject: Comment on Proposed Non-Owner Occupied Property Tax Regulations (SB 2026)

Dear Chairperson and Members of the Committee,

I am writing to express my concerns regarding the proposed regulations implementing Rhode Island's Non-Owner Occupied Property Tax.

While I understand the intent behind this policy, I believe the current structure may produce unintended consequences that negatively impact housing availability, real estate investment, and transaction efficiency across the state.

First, this tax risks discouraging investment in Rhode Island's housing market, particularly among buyers of higher-value residential properties. These individuals often contribute significantly to the local economy, and policies that penalize non-owner occupancy may deter future development and acquisition.

Second, the proposal may inadvertently impact small-scale property owners, including those who own one- to four-unit residential properties. Without a clear and consistent statewide definition of "residential property," there is a risk of uneven application across municipalities, creating confusion and inequity.

Additionally, the requirement for a Certificate of No Tax Due with a 15-business-day processing period presents practical challenges. In many real estate transactions—especially cash sales or time-sensitive closings—this delay could disrupt or even prevent successful closings. Aligning this timeline with the existing five-day standard for a Certificate of Good Standing would be a more workable solution.

Further, the proposed requirement for landlords to submit lease documentation raises legitimate privacy concerns. Many property owners are uncomfortable sharing tenant agreements with the state, and clearer guidance or alternative verification methods should be considered.

Ultimately, while the goal of addressing housing issues is important, this policy may reduce investment, complicate transactions, and create administrative burdens without meaningfully increasing housing supply.

I respectfully urge the Division to reconsider these provisions and work collaboratively with industry stakeholders to develop a more balanced and effective approach.

Thank you for your time and consideration.

Sincerely,

Paul Harrison
The Martone Group / ReMax Properties
401-473-7059

Whitmarsh, Bethany (DOR)

From: Stephen Antoni <stephen.antoni@mottandchace.com>
Sent: Thursday, April 16, 2026 10:56 AM
To: Whitmarsh, Bethany (DOR)
Cc: Trevor Chasse
Subject: Opposition to Proposed Non-Owner Occupied Property Tax

Respectfully, among many other signals this new tax will send to out-of-town investors, is that it will tend to paint our state as unfriendly to anyone wishing to purchase a vacation home in Rhode Island, to enjoy with friends and family perhaps for generations to come. Typically, the non-owner occupant does not burden the school system or put year-round demands on the town or city's infrastructure, fire and safety, traffic and air quality, etc., as do year-round residents. This state's economy relies heavily on travel and tourism and being the seasonal vacation destination that it is. It seems counter intuitive to penalize someone who chooses to purchase a home here and occupy it for part of the year, while already paying taxes for the portion of the year that they are not here. I firmly believe that this new tax, if passed, will disincentivize some from investing in RI.

Thank You
Stephen Antoni

Stephen Antoni, ABR, SRS, PSA, AHWD, C-RETS, SFR
Broker Associate
Mott & Chace
Sotheby's International Realty
100 Exchange St
Providence, RI 02903
401.741.9777 cell
401.314.3000 off.
stephen@mottandchace.com
mottandchace.com [mottandchace.com]

Licensed in; RI MA CT FL

***Wire Fraud is Real*.**

Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions.
Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.

Whitmarsh, Bethany (DOR)

From: Stephanie Johnson <kghoshx@gmail.com>
Sent: Thursday, April 16, 2026 10:30 AM
To: Whitmarsh, Bethany (DOR)
Subject: Non-Owner Occupied Property Tax

Dear Ms. Whitmarsh,

I am writing to provide public comment on the proposed regulation implementing the non-owner-occupied residential property tax.

My husband and I own a second home in Jamestown, Rhode Island that we personally use for approximately 130-150 days each year. While this property is not our primary residence, it is actively and consistently occupied by me and my family and is not used as a rental or held vacant for investment purposes.

In addition, I personally am at the house each month because my 85-year old mother lives in Little Compton, RI - where I grew up - so I can look after her and help her keep up her property.

Under the proposed regulation, I understand that a property must be occupied for more than 183 days per year to qualify as "owner-occupied." I am concerned that this threshold may unintentionally classify properties like mine—regularly used but not meeting the 183-day standard—as non-owner-occupied.

In my case, the home is neither vacant nor income-producing. It contributes to the local community through regular use, maintenance, and local spending. We utilize services both on the island and throughout Rhode Island for snow removal, plumbing and heating, well maintenance, mooring services, and landscaping. Our local retail spending also adds at least $1k per week in products that we source locally when we are here for day to day living.

In addition, over the past 15 years that my husband and I have owned this property, we have donated $10,000 to the 2024 renovation of the Jamestown Philomenian Library, our son, throughout high school, volunteered at the Jamestown Community Farm, and both our boys took classes at the Jamestown Arts Center, learned sailing through CISF and enjoyed their childhood summers in Rhode Island, as I did myself as a child.

However, under the current definition, our home would be treated the same as a property that is rarely used or held purely for speculative purposes.

I respectfully suggest that the Division consider adjustments to better distinguish between these situations.

For example:

- Lowering the day threshold for owner occupancy, or
- Creating a separate category for frequently used, non-rental second homes.

Such changes could help ensure the regulation more accurately reflects actual property use while still supporting the policy goals of the legislation.

Thank you for the opportunity to provide input on this matter. I appreciate your consideration.

Sincerely,

Stephanie Johnson
716 East Shore Road
Jamestown

AP&S ADLER POLLOCK & SHEEHAN P.C.

100 Westminster Street, 16th Floor
Providence, RI 02903
Telephone 401.274.7200
Fax 401.751.0604 / 351.4607

apslaw.com

May 09, 2026

Via E-mail to: (bethany.whitmarsh@tax.ri.gov)

Bethany M. Whitmarsh, Esq.
Assistant Tax Administrator
Rhode Island Department of Revenue
Division of Taxation
One Capitol Hill, 1st Floor
Providence, RI 02908

Re: Proposed Adoption of 280-RICR-20-75-1, Non-Owner Occupied Property Tax

Dear Ms. Whitmarsh:

I am pleased to submit my comments on the Public Notice of Proposed Rulemaking (the "NPRM") regarding the proposed adoption of 280-RICR-20-75-1, Non-Owner Occupied Property Tax (the "Proposed Regulation"), issued by the Rhode Island Division of Taxation (the "Division").

I. Background

The Proposed Regulation's stated purpose is to implement R.I. Gen. Laws Chapter 44-72 (the "Act"), which imposes a statewide tax upon non-owner occupied residential property assessed at a value of one million dollars ($1,000,000) or more. The Division cites its statutory authority under R.I. Gen. Laws §§ 44-1-4 and 44-72-14 to promulgate the Proposed Regulation.

I respectfully submit to the Division comments on three (3) sections of the Proposed Regulation that may be unenforceable or held invalid by a court of competent jurisdiction because they directly conflict with the Act.

II. Summary of Concerns and Requested Action

I have reviewed the Proposed Regulation and submit the following recommendations in response to the public notice:

> Section 1.5 – adopt the definition of "non-owner occupied" under the Act verbatim in Proposed Regulation Section 1.5.B.
>
> Section 1.10 – revise the exemption under Proposed Regulation Section 1.10.A; strike Proposed Regulation Section 1.10.B in its entirety.
>
> Section 1.11 – revise Proposed Regulation Section 1.11.B.1.

These revisions are necessary to align the Proposed Regulation with the Act, eliminate inconsistencies, and ensure the regulation operates as intended. I urge the agency to incorporate these changes before finalizing the Proposed Regulation.

A. Section 1.5 – Definition of Non-Owner Occupied

The definition of "non-owner occupied" is the most critical issue for the Act and the Proposed Regulation promulgated thereunder because the Act imposes a tax only on residential properties within the state during the taxable year that are non-owner occupied.[1] Under the Act, "non-owner occupied" means that the residential property does not serve as the owner's primary residence and is not occupied by the owner of the property for a majority of days during a given taxable year.[2]

R.I. Gen. Laws § 44-72-3(3) establishes a two-element test, both elements of which must be satisfied before a property is "non-owner occupied" under the Act. The test operates only on properties that already meet the threshold residential-property requirement of R.I. Gen. Laws § 44-72-4. To be considered "non-owner occupied" under the Act, the subject property (i) must not serve as the owner's primary residence; and (ii) must not be occupied by the owner of the property for a majority of days during a given taxable year. Critically, the General Assembly used the conjunction "and" rather than "or" to link these two criteria, meaning that both must be satisfied before a property is "non-owner occupied."

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[1] R.I. Gen. Laws § 44-72-4.

[2] R.I. Gen. Laws § 44-72-3(3).

Accordingly, if the subject property serves as the owner's primary residence, it is not considered "non-owner occupied" under the Act. Alternatively, if the subject property is occupied by the owner of the property for a majority of days during a given taxable year, it is likewise not considered "non-owner occupied" under the Act. "Primary residence" is not defined under the Act.

Conversely, under the Proposed Regulation, "non-owner occupied" means that the residential property does not serve as the owner's primary residence, which means the property is not occupied by the owner of the property for one hundred eighty-three (183) days or more during the privilege year.[3] The definition of "non-owner occupied" under the Proposed Regulation therefore combines two elements from the statutory counterpart definition of "non-owner occupied" under the Act into a single element.

Under the proposed framework, a residential property that serves as the owner's primary residence may not be considered "non-owner occupied" under the Act but may simultaneously be considered "non-owner occupied" under the Proposed Regulation if the subject residential property was not occupied by the owner of the property for one hundred eighty-three (183) days or more during the privilege year.

The over-extension is most clearly seen by placing the two definitions side-by-side:

> **Statute (R.I. Gen. Laws § 44-72-3(3)):** "Non-owner occupied" means that the residential property does not serve as the owner's primary residence **and** is not occupied by the owner of the property for a majority of days during a given taxable year.
>
> **Proposed Regulation (§ 1.5.B):** "Non-owner occupied" means that the residential property does not serve as the owner's primary residence, **which means** the property is not occupied by the owner of the property for **one hundred eighty-three (183) days or more during the privilege year**.

The General Assembly's conjunction "and" joins two independent disqualifiers, both of which must be satisfied; the Division's substitution of "which means" collapses them into a single occupancy-based test.

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[3] Rule Section 1.5.B.

This definition of "non-owner occupied" under the Proposed Regulation attempts to define "primary residence." Guidance from the Division suggests that the Division's position in most cases is that a primary residence is what would ordinarily be used on a taxpayer's Form 1040 personal income tax return. However, guidance from the Division also suggests that it would consider other evidence of residence and occupancy such as driver's licenses, voter registration, etc.

The Division's position, and the Proposed Regulation, conflate the two elements included in the definition of "non-owner occupied" under the Act, namely that the subject property not be the owner's primary residence and that the property not be occupied for a majority of days during the given taxable year. The Proposed Regulation attempts to apply the definition of "non-owner occupied" more broadly and render the separate, second element in the definition of "non-owner occupied" under the Act meaningless. Although the Division has authority under R.I. Gen. Laws § 44-72-14 to promulgate regulations implementing the Act, that authority does not extend to nullifying a separate criterion the General Assembly chose to include. Nor is administrative deference available where, as here, the statutory language is unambiguous.

I therefore respectfully advise the Division to adopt the definition of "non-owner occupied" under the Act verbatim in Proposed Regulation Section 1.5.B.

B. Section 1.10 - Exemptions

The Act provides for exemptions to the tax, which shall not apply to "any properties or buildings that are rented or were rented for a period of more than one hundred eighty-three (183) days during the prior taxable year and subject to the provisions of chapter 18 of title 34 or any properties **or** buildings that are rented or were rented and are subject to tax pursuant to chapter 18 of this title."[4]

The use of "or" separating the two exemptions and the restating of "any properties or buildings" separates the two independent clauses. Based on the statutory language, two separate and distinct exemption options therefore exist under the Act: (i) properties rented for a period of more than one hundred eighty-three (183) days during the prior taxable year and subject to the provisions of chapter 18 of title 34 (the Residential Landlord and Tenant Act); and (ii) properties rented and subject to tax pursuant to chapter 18 of title 44 (the Sales and Use Tax Act).

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[4] R.I. Gen. Laws § 44-72-5.

Notably, exemption option (i) requires a minimum rental period of more than one hundred eighty-three (183) days during the prior taxable year while exemption option (ii) contains no such minimum rental period. Accordingly, a subject property that was rented and subject to tax pursuant to chapter 18 of title 44 for any duration should be exempt under the Act via the plain language of option (ii).

Conversely, the counterpart exemption under the Proposed Regulation reads as follows: "A short-term rental rented for one hundred eighty-three (183) days or more during the privilege year that is subject to sales tax, hotel tax, and/or whole home short-term rental tax under R.I. Gen. Laws §§ 44-18-1 et seq."[5] The Division has erroneously applied the one hundred eighty-three (183) day minimum threshold requirement to the counterpart exemption to statutory option (ii).

The Proposed Regulation provides the following example: "A Newport home that is rented weekly to host weddings during a privilege year. The home is rented during a privilege year for a total of 200 days. Therefore, the property would qualify for an exemption to the tax."[6] The Division's erroneous application of the one hundred eighty-three (183) day minimum threshold requirement to the Proposed Regulation's counterpart exemption to statutory option (b) also renders the following "combination" exemption and its examples inapplicable and unenforceable: "A property that combines the above exemptions and is rented for a total of one hundred eighty-three (183) days or more during the privilege year would qualify for an exemption to the tax."[7]

I respectfully advise the Division to revise the exemption under Proposed Regulation Section 1.10.A. as follows:

> **There are two exemptions to the non-owner occupied tax. The tax will not be imposed upon non-owner occupied property owners if the property fits into one ~~or a combination~~ of the following categories:**

I respectfully advise the Division to revise the exemption under Proposed Regulation Section 1.10.A.2 as follows to comply with the counterpart exemption under the Act:

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[5] Rule Section 1.10.A.2.

[6] Rule Section 1.10.A.2.a.

[7] Rule Section 1.10.B.

> **A short-term rental ~~rented for one hundred eighty-three (183) days or more during the privilege year~~ that is subject to sales tax, hotel tax, and/or whole home short-term rental tax under R.I. Gen. Laws §§ 44-18-1 et seq.**

I respectfully advise the Division to revise the exemption example under Proposed Regulation Section 1.10.A.2.a as follows to comply with the counterpart exemption under the Act:

> **Example: A Newport home that is rented weekly to host weddings ~~during a privilege year. The home is rented during a privilege year for a total of 200 days~~. Therefore, the property would qualify for an exemption to the tax.**

I respectfully advise the Division to strike Proposed Regulation Section 1.10.B in its entirety. Once the 183-day requirement is removed from Proposed Regulation Section 1.10.A.2, the "combination" exemption in Section 1.10.B becomes both unnecessary and internally inconsistent, because it presupposes the very threshold the Act does not impose.

C. Section 1.11 – Application for Exemption

I respectfully direct the Division to my comments regarding Section 1.5 and advise the Division to revise Proposed Regulation Section 1.11.B.1 as follows:

> **Such documentation shall prove either that the property is the owner's ~~taxpayer's~~ primary residence, ~~and~~ or that the owner(s) resides at the property for more than one hundred eighty-three (183) days each year, or that the property qualifies for an exemption.**

III. Conclusion

When interpreting statutes, courts begin by examining whether the statutory language is clear and unambiguous.[8] When confronted with a clear and unambiguous statute, courts must interpret the statute literally and "'give the words of the statute their plain and ordinary meanings.'"[9] The Division has authority under R.I. Gen. Laws §§ 44-1-4 and 44-72-14 to promulgate rules and regulations implementing the Act, that authority is limited to implementation, not amendment. The

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[8] *Balmuth v. Dolce for Town of Portsmouth*, 182 A.3d 576, 580 (R.I. 2018).
[9] *Id.*

General Assembly did not authorize the Division to narrow a statutory definition or to add a numeric threshold the legislature itself omitted.

I respectfully request that the Division revise the Proposed Regulation to conform to the statute's text and limits, avoid creating new liabilities or preconditions not found in statute, and ensure clear, administrable rules that align with taxpayer rights.

If you have any questions, please feel free to contact me at 401-427-6132 or at the email listed below.

Sincerely yours,

Kristen R. Alberione, Esq.
KAlberione@apslaw.com

Mosca, Carrie (DOR)

From: Legal, Tax (DOR)
Sent: Friday, May 8, 2026 9:30 AM
To: Mosca, Carrie (DOR)
Subject: Fw: proposed Taylor Swift reg that changes the definition of "non-resident occupied"

From: elb2186@aol.com <elb2186@aol.com>
Sent: Thursday, May 7, 2026 2:07 PM
To: Legal, Tax (DOR) <Tax.Legal@tax.ri.gov>
Subject: proposed Taylor Swift reg that changes the definition of "non-resident occupied"

Below are my comments sent to the RI House Committee on Finance:

Chris--As Clerk of the House Finance Committee, you can share this email with members of the committee. I have already contacted Rep Terri Courtvriend and am copying her.

My brother Kevin and I and our spouses are the beneficial owners of the trust that is the owner of record for One Shore Drive in Middletown. It is not a primary residence for us, but we spend a lot of time there, especially my brother Kevin, for more 183+ days for the tax year 7/1/25 to 6/30/26. This is also the case for most of the recent years dating back to the onset of COVID in 2020.

The statute defines "non-owner occupied" as property which is not the owner's primary residence AND which is not occupied by the owner for 183+ days. The meaning of this definition is that the property may not be classified as "non-owner occupied" and may therefore be excused from the new tax if the owner can show occupancy for 183+ days for the tax year in question.

The RI Tax division has proposed several regulations for the new tax law. Public comment period ends tomorrow.

One of the proposed regs changes the statute's definition of non-resident owner by eliminating the clause after the AND. It would prevent an owner from presenting evidence for 183+ occupany days. It eliminates owners like us from the possbility of being excused from the tax.

I hope the Committee members may feel that this propsed reg effectively amends the statute, which a reg may not do. The Division instead should seek this change as an amendment request to the legislature. And the Division may argue that this regulation would be/should be retroactive to 7/1/25. If so, would this not be illegal? How can a crucial change like this be introduced at the 11th hour and be made retroactive?

I would welcome the opportunity to discuss this matter with you or any Committee members.

Thanks, Ed Burke, One Shore Drive, Middletwown 508-561-8821

Mosca, Carrie (DOR)

From: Legal, Tax (DOR)
Sent: Friday, May 8, 2026 9:30 AM
To: Mosca, Carrie (DOR)
Subject: Fw: Regulations need to be clear that a non-resident property owner is excused from the 2nd home tax if evidence shows occupany for 183+ days

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From: elb2186@aol.com <elb2186@aol.com>
Sent: Tuesday, May 5, 2026 8:39 PM
To: Legal, Tax (DOR) <Tax.Legal@tax.ri.gov>
Subject: Regulations need to be clear that a non-resident property owner is excused from the 2nd home tax if evidence shows occupany for 183+ days

The Division's regulations need to be clear that whether an owner is a resident or not, the owner is excused from the tax if the owner produces evidence of 183+ days of occupancy.

The below email exchange shows the need for this clarification:

Amanda--I have read the documents you mentioned. My plain reading of the proposed reg changing the definition of non-resdident owner is that it takes away the occupany test which allows a non-resident to be excused from the tax. If my reading is correct, then the documents you referenced are consistent with the statute--but not with the proposed reg.

A better proposed reg would be one that lists various kinds of records that can be used as evidence of occupany. The only records specifically mentioned in the statute are utility bills. My brother Kevin has submitted to the Division lots of other records, in addition to utillity bills. Those records are being reviewed by Adriana Walmsley. We assume that she is aware that evidence of occupany for 183+ days excuses us from the tax, regardless of our resident or non-resident status.

Best regards, Ed Burke

On Tuesday, May 5, 2026 at 08:47:11 AM EDT, Tirocchi, Amanda (DOR) <amanda.tirocchi@tax.ri.gov> wrote:

Good morning Mr. Burke,

Thank you for reaching out. The proposed regulation is consistent with the statute – you can find documents related to the proposed regulation, including the Benefit-Cost Analysis document posted on the

"Regulations" page of the Division's website (Regulations | RI Division of Taxation), which may be helpful in understanding the regulation.

We also have a webpage specifically for Non-Owner Occupied Property Tax: Non-Owner Occupied Property Tax | RI Division of Taxation. The webpage has background information and FAQs that should be helpful in understanding how the tax is being implemented and administered.

Thank you,
Amanda

Amanda Tirocchi
Internet Communications Specialist
(401) 574.8184 I Amanda.Tirocchi@tax.ri.gov

Rhode Island Department of Revenue
Division of Taxation
One Capitol Hill

Mosca, Carrie (DOR)

From: Legal, Tax (DOR)
Sent: Friday, May 8, 2026 9:30 AM
To: Mosca, Carrie (DOR)
Subject: Fw: further comment on proposed reg 1.5 B in the Definitions Section for Chap. 72 of 2025

From: elb2186@aol.com <elb2186@aol.com>
Sent: Monday, May 4, 2026 3:33 PM
To: Legal, Tax (DOR) <Tax.Legal@tax.ri.gov>
Cc: ed burke <elb2186@aol.com>
Subject: further comment on proposed reg 1.5 B in the Definitions Section for Chap. 72 of 2025

Please note my further comment, as part of an email exchange below with Amanda Tirocchi, in addition to my initial comment on April 22, in opposition to the Tax Division's change in section 1.5, concerning the definition of "non-owner occupied."

Thank you Ed Burke, One Shore Drive, Middletown 508-561-8821 Tax Division Case # 24586167

elb2186@aol.com
From:elb2186@aol.com
To:Tirocchi, Amanda (DOR)
Cc:rep-cortvriend@rilegislature.gov
Mon, May 4 at 1:16 PM
Amanda--Wouldn't I able to make a more informed comment if I knew what the Division's intent was? What's the secret?

Also, if the definition makes it more difficult to be excused from the tax, and if approved, it should be applicable prospectively, and not for the first 10+ months of the tax year.

Ed Burke

On Monday, May 4, 2026 at 11:42:06 AM EDT, Tirocchi, Amanda (DOR) <amanda.tirocchi@tax.ri.gov> wrote:

Good morning Mr. Burke,

Thank you for reaching out. I can confirm that we have received your public comment submitted through the Tax.Legal@tax.ri.gov email address. After the comment period closes on May 9, 2026, we will address your comment and the other submitted comments.

Thank you,
Amanda

Amanda Tirocchi
Internet Communications Specialist
(401) 574.8184 I Amanda.Tirocchi@tax.ri.gov

Rhode Island Department of Revenue
Division of Taxation
One Capitol Hill
Providence, Rhode Island 02908

Whitmarsh, Bethany (DOR)

From: Greg Weiss <jwapartments@aol.com>
Sent: Wednesday, April 29, 2026 10:29 AM
To: Whitmarsh, Bethany (DOR)
Subject: 280-RICR-20-75-1

Taylor swift tax

Dear Department of Revenue,

Please create an affidavit for landlords and property managers to sign attesting to their property being a long term rental instead of providing copies of leases annually. There are many long term tenants who now go month to month or only have verbal agreements. The law that passed does not require that leases must be collected by the department of revenue and many might feel that this is an invasion of privacy.

Thank you,
Greg Weiss