

## Real Estate Finance: Rhode Island

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A Q&A guide to commercial real estate finance law for borrowers and lenders in Rhode Island. This Q&A addresses state laws relating to security instruments, usury, limitations on personal liability, recording requirements and taxes, priority issues, mechanics' liens, landlord liens, title insurance matters, and foreclosure procedures primarily impacting lending transactions in a commercial real estate context. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see Real Estate Finance: State Q&A Tool).

### Instrument and Execution

**1. When real estate is part of the lender's collateral, is a mortgage commonly used in your jurisdiction or is a trustee appointed to hold a deed of trust (or a deed to secure debt) as security for the loan? If a deed of trust is more commonly used, who is typically designated as the trustee?**

In Rhode Island, a mortgage secures a lien on real property.

**2. Describe any laws that would limit a borrower's or guarantor's personal liability for debt secured by real property.**

There are no Rhode Island laws that would materially limit a borrower's or guarantor's personal liability for debt secured by commercial real property.

**3. Are there restrictions on interest rates charged for loans secured by real property?**

In Rhode Island, the maximum interest rate chargeable per year is the greater of:

- 21%.
- 9% plus the domestic prime rate published in the Money Rates section of *The Wall Street Journal* on the last business day of the month preceding the later of the date of:
  - the loan agreement; or
  - redetermination of the rate under the loan agreement.

(R.I. Gen. Laws § 6-26-2(a), (b).)

There are exceptions to the maximum interest rate. For example, there is no limit on the rate chargeable to a commercial entity when the loan meets all the following conditions:

- The loan amount exceeds \$1 million.
- Repayment is not secured by a mortgage against any borrower's principal residence.
- The entity first obtains a pro forma methods analysis from a state-licensed certified public accountant indicating the loan is capable of being repaid.

(R.I. Gen. Laws § 6-26-2(e).)

#### 4. Are there any requirements for the execution of a mortgage or deed of trust? In particular, please consider if:

- Witnesses are required.
- Specified officers of a corporation (or members of a limited liability company) must execute the security instrument.
- The signatory's name and title must be specified on the signature page.
- A corporate seal is required.
- Signed resolutions must be presented with the security instrument for purposes of recording.
- There are any other important requirements in your state?

For information on whether Rhode Island has adopted electronic signatures, electronic recording, or remote online notarization (RON), see Question 17.

#### Witnesses

Rhode Island law does not require witnesses for the execution of a mortgage. The borrower's signature, however, must be notarized (R.I. Gen. Laws § 34-11-1).

#### Specified Officers

Rhode Island law does not specify that any particular officer execute a mortgage.

#### Signatory's Name and Title

The signature and notary blocks of the mortgage should include the signatory's name and title to avoid any ambiguity about the capacity of the person signing. The name should be typed or printed immediately under or next to the signature line (R.I. Gen. Laws § 34-11-1.1).

#### Corporate Seal

Rhode Island law does not require that a corporate seal be affixed to a mortgage.

#### Signed Resolutions

Signed resolutions are not required for recording.

#### Other Requirements

There are no other legal requirements for executing a mortgage. To avoid a higher recording fee, the name

and address of the borrower and lender should be clearly stated in (or endorsed on) the mortgage (R.I. Gen. Laws § 34-11-1.3).

#### 5. Provide the statutory form of acknowledgment for:

- An individual.
- A corporation.
- A limited liability company.
- A limited partnership.
- A trustee.

Rhode Island does not prescribe a specific form of acknowledgment certificate for real estate finance transactions. The sample forms below meet the requirements of Rhode Island law. (R.I. Gen. Laws § 34-12-1.)

Rhode Island has adopted remote online notarization (RON) (R.I. Gen. Laws § 42-30.1-12.1; see Question 17). There may be specific requirements for acknowledgments certified using RON. For more information, see [Electronic Signatures, Recording, and Notarization Laws for Real Estate Transactions: State Comparison Chart: Rhode Island](#).

#### Individual

STATE OF RHODE ISLAND )  
COUNTY OF [COUNTY] )  
)

On this [DATE] day of [MONTH], [YEAR], before me, the undersigned notary public, personally appeared [SIGNATORY NAME], personally known to the notary or proved to the notary through satisfactory evidence of identification, which was [TYPE OF IDENTIFICATION], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [he/she/they] signed it voluntarily for its stated purpose.

[SIGNATURE AND STAMP OF NOTARY]

[PRINTED NAME AND ID NUMBER OF NOTARY]

My commission expires: [DATE]

**Corporation**

STATE OF RHODE ISLAND )  
COUNTY OF [COUNTY] )  
 )

On this [DATE] day of [MONTH], [YEAR], before me, the undersigned notary public, personally appeared [SIGNATORY NAME], in [his/her/their] capacity as [SIGNATORY TITLE OR POSITION] of [CORPORATION NAME], personally known to the notary or proved to the notary through satisfactory evidence of identification, which was [TYPE OF IDENTIFICATION], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [he/she/they] signed it voluntarily for its stated purpose on behalf of said [CORPORATION NAME].

[SIGNATURE AND STAMP OF NOTARY]  
[PRINTED NAME AND ID NUMBER OF NOTARY]  
My commission expires: [DATE]

**Limited Liability Company**

STATE OF RHODE ISLAND )  
COUNTY OF [COUNTY] )  
 )

On this [DATE] day of [MONTH], [YEAR], before me, the undersigned notary public, personally appeared [SIGNATORY NAME], in [his/her/their] capacity as [SIGNATORY TITLE/POSITION] of [LIMITED LIABILITY COMPANY (LLC) NAME], personally known to the notary or provided to the notary through satisfactory evidence of identification, which was [TYPE OF IDENTIFICATION], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [he/she/they] signed it voluntarily for its stated purpose on behalf of said [LLC NAME].

[SIGNATURE AND STAMP OF NOTARY]  
[PRINTED NAME AND ID NUMBER OF NOTARY]  
My commission expires: [DATE]

**Limited Partnership**

STATE OF RHODE ISLAND )  
COUNTY OF [COUNTY] )  
 )

On this [DATE] day of [MONTH], [YEAR], before me, the undersigned notary public, personally appeared [SIGNATORY NAME], in [his/her/their] capacity as [SIGNATORY TITLE/POSITION] of [LIMITED PARTNERSHIP NAME], personally known to the notary or proved to the notary through satisfactory evidence of identification, which was [TYPE OF IDENTIFICATION], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [he/she/they] signed it voluntarily for its stated purpose on behalf of said [LIMITED PARTNERSHIP NAME].

[SIGNATURE AND STAMP OF NOTARY]  
[PRINTED NAME AND ID NUMBER OF NOTARY]  
My commission expires: [DATE]

**Trustee**

STATE OF RHODE ISLAND )  
COUNTY OF [COUNTY] )  
 )

On this [DATE] day of [MONTH], [YEAR], before me personally appeared [SIGNATORY NAME], as Trustee of the [TRUST NAME] Trust, personally known to the notary or proved to the notary through satisfactory evidence of identification, which was [TYPE OF IDENTIFICATION], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that [he/she/they] signed it voluntarily for its stated purpose on behalf of the Trust.

[SIGNATURE AND STAMP OF NOTARY]  
[PRINTED NAME AND ID NUMBER OF NOTARY]  
My commission expires: [DATE]

## Priority

### 6. Describe the relevant statutes granting priority to mechanics' liens.

The Rhode Island Mechanics' Lien Law grants lien rights for work performed under contract to construct, erect, alter, or repair a building or other improvement by:

- Contractors.
- Material suppliers.
- Architects and engineers.
- Others engaged in real estate projects.

(R.I. Gen. Laws §§ 34-28-1 to 34-28-37.)

## Perfection

To perfect a mechanic's lien, a lienor must mail to the property owner or tenant:

- A notice of possible mechanic's lien in the statutory form before commencing work or delivering materials. This requirement applies only to lienors (except for material suppliers) contracting directly with the owner or tenant. The lienor may alternatively provide the notice by incorporating it conspicuously into its contract. (R.I. Gen. Laws § 34-28-4.1.)
- A notice of intention substantially following the statutory form within 200 days after performing work or delivering materials. This requirement applies to all lienors. (R.I. Gen. Laws § 34-28-4.)

In addition, the lienor must record:

- A copy of the notice of intention in the land evidence records in the municipality where the property is located within 200 days after performing work or delivering materials (R.I. Gen. Laws § 34-28-4(a)).
- A notice of *lis pendens* substantially following the statutory form within 40 days after recording the notice of intention and not more than seven days before filing a complaint to enforce the lien (R.I. Gen. Laws §§ 34-28-10(a), 34-28-11, and 34-28-12).

An architect or engineer and its subcontractors may assert a lien for work done in connection with the

construction, erection, alteration, or repair of a project. The deadline for this type of lienor to mail and record a notice of intention, however, is the later of:

- 200 days after performing work.
- Ten days after the actual and visible commencement (by excavation or otherwise) of the construction, erection, alteration, or repair.

(R.I. Gen. Laws § 34-28-7.)

## Enforcement

To enforce its lien and preserve its claim, a lienor must file a complaint containing the information required by statute in the superior court for the county where the real property is located:

- Within 40 days after recording the notice of intention.
- Either on the same day as or within seven days after recording the notice of *lis pendens*.

(R.I. Gen. Laws §§ 34-28-10(a) and 34-28-13.)

The lienor must:

- Attach to the complaint separate lists containing:
  - the name and address of every lienor that has recorded a notice of intention; and
  - all persons with any recorded lien or other encumbrance against the property or improvement.

(R.I. Gen. Laws § 34-28-13.)

- Mail a copy of the court clerk's published notice of the lien action to every lienor that has recorded a notice of intention (R.I. Gen. Laws § 34-28-14).

## Priority

A mechanic's lien:

- Has priority over any later recorded lien or other encumbrance (except another mechanic's lien) from the date the lienor records its notice of intention.
- Is junior to any earlier recorded lien or other encumbrance (except another mechanic's lien). The lienor may pay off the senior interest and become subrogated to that interest holder's rights.

(R.I. Gen. Laws § 34-28-25(a)(2).)

If there are multiple mechanic's liens on the same project:

- All lienors share pro rata in the distribution of any funds received by deposit under R.I. Gen. Laws § 34-28-17 or the proceeds of any sale under R.I. Gen. Laws § 34-28-21 based on the amount of their claim plus any additional filing and advertising expenses.
- Any mechanic's liens senior to an intervening non-mechanic's lien interest are separated from and have higher priority than any mechanic's liens junior to the intervening interest.

(R.I. Gen. Laws § 34-28-25(a)(1), (3).)

The court or a master determines the priority of liens between any other persons according to equity and good conscience (R.I. Gen. Laws § 34-28-25(b)).

### 7. Are there liens which can supersede the priority of a lender's recorded lien?

Examples of liens that can supersede the priority of a lender's recorded lien in Rhode Island include:

- Property tax liens (R.I. Gen. Laws §§ 44-9-1 and 44-9-5(b)).
- Sewer and certain other district liens (R.I. Gen. Laws § 44-9-3).

### 8. How do lenders maintain the priority of their real property liens over superseding liens, such as real property tax liens and mechanics' liens? In particular, please consider:

- Permanent loans.
- Construction loans with future advances.
- Credit facilities with future advances under revolving lines of credit.

## Permanent Loans

In Rhode Island, the priority of liens is generally established by operation of law regardless of specific additional efforts to maintain priority (see Question 7). Some lenders mitigate their risk, however, by:

- Escrowing taxes as part of the borrower's required monthly loan payment and paying the taxes directly to the appropriate authority.
- Retaining a tax service or relying on financial reporting requirements to monitor tax payments.

## Construction Loans

Construction loans are subject to the same general priority considerations as permanent loans (see Permanent Loans). To secure the retroactive priority of future advances, however, the mortgage must:

- Be entitled "Mortgage to secure present and future loans under §§ 34-25-1 – 34-25-5."
- State:
  - that it is intended to secure present and future loans; and
  - a maximum principal amount.

(R.I. Gen. Laws § 34-25-1(a); *People's Sav. Bank in Providence v. Champlin Lumber Co.*, 258 A.2d 82, 85 (R.I. 1969).)

This benefit:

- Extends to protective advances for interest, taxes, insurance premiums, and other obligations (R.I. Gen. Laws § 34-25-1(a)).
- Does not apply to discretionary advances:
  - exceeding \$3,000; or
  - made after any writ of attachment, execution, or notice of *lis pendens* affecting the property is entered of record.

(R.I. Gen. Laws §§ 34-25-1(b) and 34-25-3; *People's Sav. Bank*, 258 A.2d at 85.)

Lenders should obtain a date down endorsement every time they make a future advance under a construction loan or credit facility (see Question 12).

## Credit Facilities

The same priority considerations for future advances under a construction loan generally apply to advances under a credit facility with a revolving line of credit (see Construction Loans). For additional security, a mortgage securing a revolving loan (or any other loan with future advances) may qualify as an open-end

mortgage under Rhode Island law by meeting all the following criteria:

- The mortgage must:
  - be entitled “Open-end mortgage to secure present and future loans under chapter 25 of title 34”;
  - specifically authorize future advances;
  - state a maximum principal amount; and
  - provide an address for the lender to receive statutory notices.
- The outstanding principal balance cannot exceed the stated maximum.
- All advances must be evidenced by a promissory note or loan agreement signed by the borrower.

(R.I. Gen. Laws §§ 34-25-8 and 34-25-9.)

All future advances and readvances up to the stated limit under an open-end mortgage enjoy priority from the recording date of the mortgage (R.I. Gen. Laws § 34-25-8). This retroactive priority:

- Extends to protective advances (R.I. Gen. Laws § 34-25-8).
- Does not apply to discretionary advances made after the lender receives written notice of the entry of record of any attachment, execution, notice of *lis pendens*, or later mortgage or lien affecting the property (R.I. Gen. Laws § 34-25-10(b)).

### **9. What are a landlord’s legal rights to a tenant’s personal property located in the leased premises? Are these rights governed by statute, common law, or contract?**

Rhode Island does not have a statute granting landlords a lien right against their tenants’ personal property. Any landlord rights in this respect are governed by the lease terms and contract law.

Lenders do, however, routinely require lien waivers from landlords. These waivers often provide the lender with the ability to:

- Access the leased premises to exercise any rights to the collateral.
- Sell the collateral via auction or private sale.

## Mortgage Recording Taxes

### **10. Is there a mortgage recording tax (or similar tax)? If so:**

- What is the rate and how is the tax calculated?
- Can a loan or refinance be structured to reduce the tax?
- Is the tax payable on making a loan secured by real property or perfecting a lien on real property?
- Is there any type of real property or transaction that is exempt from a mortgage recording tax (or similar tax)?
- Are there any other state or local taxes or fees imposed on the grant, perfection, or enforcement of a security interest in real property? Are there any exceptions?

There is no mortgage recording tax in Rhode Island.

There are fees to record any document in a municipality’s land evidence records (R.I. Gen. Laws §§ 34-13-7 and 42-8.1-20(b)). For a sample recording fee schedule, see [Town of Narragansett: Land Evidence Recording Fees](#).

## Title Insurance

### **11. Are title insurance premiums or service charges for lenders’ title insurance policies regulated? Are the costs of title insurance negotiable within a specified range of rates? Are there any discounts available for reissued policies?**

Title insurance charges are based on rates the insurers file with the Rhode Island Department of Business Regulation’s [Insurance Division](#) (R.I. Gen. Laws § 27-2.6-16). Some title companies may offer discounts if they (or their underwriter) have recently written a policy on the property.

### **12. Provide a list and brief description of the title insurance endorsements available to lenders.**



The following is a nonexclusive list of endorsements commonly used by lenders in Rhode Island commercial real estate transactions. Not all endorsements are applicable to each transaction. For a full list of available endorsements, consult with an approved title company.

- American Land Title Association (ALTA) 3 (3-06) series (Zoning, as applicable).
- ALTA 6 (6-06) (Variable Rate Mortgage).
- ALTA 8.2-06 (Commercial Environmental Protection Lien).
- ALTA 11 (11-06) (Mortgage Modification).
- ALTA 12 (12-06) (Aggregation).
- ALTA 13.1-06 (Leasehold).
- ALTA 14 (14-06) (Future Advance – Priority).
- ALTA 17-06 (Access and Entry).
- ALTA 18-06 (Single Tax Parcel).
- ALTA 19-06 (Contiguity – Multiple Parcels).
- ALTA 25-06 (Same as Survey).
- ALTA 26 (26-06) (Subdivision).

For more information on commercial loan policy endorsements, see [Practice Note, Title Insurance Endorsements \(Commonly Requested\) for Commercial Real Estate Loans](#).

### 13. How is gap coverage (the time between closing the loan and actually recording the lien) typically handled by the title insurance companies?

In Rhode Island, the title company typically assumes the gap coverage risk and requires the borrower to provide an affidavit and indemnity against intervening liens.

Gap coverage is relatively rare in Rhode Island. The typical practice is for the title company to record documents only after reviewing title to ensure there are no intervening liens. The lender often does not release funds until the mortgage is recorded.

## Foreclosure

### 14. Describe the foreclosure process available and the typical timing for the process. Do borrowers have a right of redemption? If so, what is the redemption period? Can lenders limit a borrower's right of redemption?

Lenders typically foreclose mortgages in Rhode Island by nonjudicial means under a power of sale after meeting all notice and publication requirements. Contractual notice obligations (such as a requirement in the mortgage to send a notice of default) are strictly construed. (*Woel v. Christiana Tr., as Tr. for Stanwich Mortg. Loan Trust Series 2017-17*, 228 A.3d 339, 344-46 (R.I. 2020).)

In addition to providing any notices required by the loan documents, the lender must:

- Send a notice of sale by certified mail, return receipt requested, to the borrower and other parties in interest at least 20 days (including the mailing date) before first publishing it. The notice of sale must include the date, time, and terms of the sale and a description of the property (R.I. Gen. Laws § 34-27-5). When given to the borrower, the notice of sale must also:
  - be mailed to the additional address(es) specified by statute, when applicable (*Montaquila v. Flagstar Bank, FSB*, 288 A.3d 967, 973 (R.I. 2023)); and
  - contain the prescribed information concerning servicemembers (R.I. Gen. Laws § 34-27-4(c), (d)). (R.I. Gen. Laws § 34-27-4(b).)
- Publish the notice of sale in a public newspaper at least once per week for three successive weeks before the sale. To satisfy this requirement:
  - the first publication must be at least 21 days (including the publication date) before the sale date;
  - the third publication must be at least seven days (including the publication date) but not more

than 14 days before the originally listed sale date; and

- the sale cannot take place more than 14 days after the third publication date (excluding that date from the calculation).

(R.I. Gen. Laws § 34-27-4(a).)

The nonjudicial foreclosure process in Rhode Island normally takes about 60 to 90 days to complete. Judicial foreclosure is also permitted but less common (R.I. Gen. Laws § 34-27-1; *Ocwen Loan Servicing, LLC v. Medina*, 247 A.3d 140, 144 (R.I. 2021)).

There is no right of redemption after a nonjudicial foreclosure. However, certain judicial possessory actions (for example, peaceable and open entry) allow redemption for up to three years. (R.I. Gen. Laws § 34-23-3.)

### 15. Describe any significant costs of or impediments to foreclosing a lien on real property.

There are no significant costs or impediments to foreclosing a lien on commercial real property in Rhode Island aside from the cost of publishing the notice of sale and the auctioneer's fees.

## Foreign Entities

### 16. Are there any permissions, approvals, or licenses specifically required for foreign banks (or other foreign lenders) to make loans secured by real property?

There are no permissions, approvals, or licenses specifically required for foreign banks to make loans secured by real property in Rhode Island provided they have no other established business presence in the state.

Foreign corporations and other foreign business entities are not considered to be transacting business in Rhode Island (and consequently do not need to obtain a certificate of authority from the [secretary of state](#)) when merely:

- Creating or acquiring indebtedness, mortgages, or other security interests in real or personal property.

- Securing or collecting debts or enforcing any rights in the collateral property.

- Transacting any business in interstate commerce.

(R.I. Gen. Laws § 7-1.2-1401.)

## Electronic Signatures, Recording, and Notarization Laws

### 17. Has your state adopted laws permitting electronic signatures, electronic recording, and remote notarization? In particular, include information on whether:

- The Uniform Electronic Transactions Act (UETA) or another law giving electronic signatures legal effect has been adopted.
- The Uniform Real Property Electronic Recording Act (URPERA) or another law permitting the recording of electronic signatures has been adopted.
- The Revised Uniform Law on Notarial Acts (RULONA) or another law permitting remote online notarization (RON) has been permanently adopted and/or temporary remote online notarization is permitted on an emergency basis due to the coronavirus pandemic.

Despite Rhode Island's adoption of the applicable electronic laws referred to below, the transaction parties or recording offices may not be required to accept documents executed or notarized electronically. Before relying on any of the below electronic laws for a particular transaction, counsel should confirm (as applicable) that:

- All parties to the transaction agree to accept electronic signatures, remotely notarized documents, or both, and intend to be bound by them.
- The applicable recording office accepts electronic signatures and remotely notarized documents for recording.

## Electronic Signatures

Rhode Island has adopted the UETA (R.I. Gen. Laws §§ 42-127:1-1 to 42-127:1-20).



### Electronic Recording

Rhode Island has adopted the URPERA (R.I. Gen. Laws § 34-13.2-1 to R.I. Gen. Laws § 34-13.2-6).

### Remote Online Notarization

Rhode Island has adopted RON (R.I. Gen. Laws § 42-30.1-12.1).

There may be specific requirements for performing RON. Reference should be made to the statute, any applicable emergency orders, and any rules promulgated by the secretary of state or other state

authority to understand all RON requirements and conditions.

For a state-by-state chart covering key provisions of RON laws, emergency orders, and pending electronic recording and RON laws, see [Electronic Signatures, Recording, and Notarization Laws for Real Estate Transactions: State Comparison Chart](#). To view and customize comparison charts on electronic signatures, recording, and notarization laws across states, see Quick Compare Chart, State Laws on Electronic Signatures, Electronic Recording, and Remote Notarization.

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