

Rhode Island Legislative Update 2020
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In re William E. Paplauskas, Jr., In re Daniel S. Balkun and Balkun Title & Closing, Inc., and In re SouthCoast Title and Escrow, Inc., 18-161, 162, 163 (R.I. 2020).

In 2018 three separate reports were submitted to the Rhode Island Supreme Court by its Unauthorized Practice of Law Committee. The reports stemmed from two residential sale transactions. Two reports involved individuals who were not licensed Rhode Island attorneys, and one involved a licensed Rhode Island attorney. All three reports involved performance of various tasks commonly associated with a residential transaction: conducting a closing, examining title for marketability, drafting a deed, drafting a residency affidavit and drafting a power of attorney. The Court expressly limited its holding to the context of a residential real estate transaction and held as follows.

An individual who is not a licensed Rhode Island attorney may conduct a residential real estate closing, draft a residency affidavit and draft a limited durable power of attorney so long as these tasks are done in connection with the issuance of title insurance. In addition, when conducting a closing, a non-attorney must comply with strict disclosure requirements. Similarly, such individuals could draft deeds and search title, but a Rhode Island licensed attorney must review the deed(s) and complete the examination of the title. For the full text of the Court's opinion, see: <https://www.sos.ri.gov/divisions/notary-public/remote-online-notarization>

The disclosure requirements for a non-attorney closing agent must comply are as follows:

- The non-attorney closing agent must communicate to the buyer and seller the following:
 - ◊The closing agent is not an attorney;
 - ◊The closing agent does not represent the buyer/borrower or the seller;
 - ◊The closing agent cannot and will not give legal advice; and
 - ◊If the buyer/borrower or seller has a legal question, they should suspend the closing and seek counsel from a licensed attorney.
- The non-attorney closing agent must present a written notice to the buyer/borrower and seller that contains the above and require the parties read the document.
- The disclosure must be the first document presented and signed at closing.
- The buyer/borrower and seller must sign a copy of the disclosure acknowledging receipt thereof and that they read and understand the contents thereof.
- The closing agent must sign the disclosure acknowledging that he or she has orally explained the content thereof to the buyer/borrower and seller and must retain a copy of same.
- The closing agent must provide a copy of the disclosure to the buyer/borrower and seller.

2. Remote Notarization

On April 3, 2020, Governor Raimondo issued revisions to the Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations, pursuant to Rhode Island General Laws Sec. 30-15-9(e)(1) applicable until the termination of the state of emergency as declared by the Governor pursuant to Executive Order 20-02. The revisions appear in Sections 2(j) and 8 thereto and temporarily permit commissioned notaries of the State to perform remote notarizations of electronic documents. The temporary regulatory change also permits Rhode Island notaries to remotely notarize paper documents after meeting with the principal on an approved technology provider. Notaries must register with the Secretary of State the capability to notarize documents remotely via an approved technology provider. Because of the temporary nature of these guidelines, the status of the Rhode Island state of emergency should be confirmed before utilizing remote notarization protocols.

<https://www.sos.ri.gov/divisions/notary-public/remote-online-notarization>