



Department of Business Regulation
Insurance Division
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Insurance Bulletin 2020-8

Title Insurance Guidelines

On May 29, 2020, the Rhode Island Supreme Court (the “Court”) issued a unanimous opinion in *In re Paplauskas, et al.*, which assessed certain functions involved in a residential real estate closing and identified those functions that may be performed by a licensed title insurance agent as defined in [R.I. Gen. Laws § 27-2.6-3\(17\)](#) (“Title Insurance Agent”) and those functions that must be performed by an attorney licensed by the Court (a “Licensed Attorney”). The Court was responding to three separate matters referred to it by the State’s Unauthorized Practice of Law Committee after extensive fact-finding and research. In its opinion, the Court directed the Department of Business Regulation to draft a disclosure notice (“Disclosure Notice”) to be used whenever a Title Insurance Agent who is not a Licensed Attorney conducts a residential real estate closing. The attached form, or a substantially similar document, may be used by Title Insurance Agents to meet that requirement.

A Title Insurance Agent with a valid producer’s license issued by the Rhode Island Department of Business Regulation may perform the following functions in conjunction with the provision of title insurance¹ for a residential real estate closing pursuant to that license:

- Conduct a residential real estate closing without providing legal advice or guidance;
- Issue a title insurance policy;
- Record a deed, mortgage deed and ancillary closing documents;
- Disburse closing funds in accordance with the settlement statement;
- Conduct a title search;
- Draft a residency affidavit in conjunction with providing title insurance when there is no question concerning residency;
- Draft a durable power of attorney for the limited purpose of the subject real estate closing in conjunction with the issuance of a title insurance policy.

The following functions may NOT be performed by a Title Insurance Agent unless that person is also Licensed Attorney:

¹ Note that duly licensed Title Insurance Agents may NOT perform any of these functions if the Agent is not retained for the purpose of issuing title insurance.

- Examining the title to determine marketability or insurability;
- Drafting the deed;
- Reviewing or drafting residency affidavits when there is any question concerning residency;
- Drafting a durable power of attorney that is not limited to the residential real estate closing;
- Imparting any legal advice;
- Offering representation or counsel or advocating on behalf of another;
- Providing advice on any issues involving the rights, duties, obligations, liabilities or business relations of another.

Title insurers (“Title Insurers”) are reminded that Title Insurance Agents must hold a title insurance producer’s license in order to issue a title insurance policy in Rhode Island. Title Insurers must have procedures in place to confirm the licensure of all of their policy-issuing Title Insurance Agents.

As the Court ruling requires the execution of a Disclosure Notice for closings conducted by non-attorneys, the Department believes Title Insurers should review their compliance procedures to ensure that collection of that form has been handled appropriately. In addition, Title Insurers are reminded of their obligations under [R.I. Gen. Laws § 27-2.6-13](#), including the obligation to conduct an audit of all policy-issuing Title Insurance Agents from whom the Title Insurers have accepted business. The audit shall be conducted on at least a biennial basis and shall include, at a minimum:

- Confirmation that the policy-issuing Title Insurance Agent held a valid title insurance producer’s license at all times during which the Title Insurance Agent acted on the behalf of the Title Insurer.
- Review of Disclosure Forms when required by the Court’s decision.

Any questions should be directed to DBR.Insurance@dbr.ri.gov .

Elizabeth Kelleher Dwyer
Superintendent of Insurance
July 9, 2020

Borrower: _____ OR Buyer: _____
(if applicable)
Property Address: _____ Seller: _____
Loan number: _____ Date: _____

**DISCLOSURE NOTICE
FOR RESIDENTIAL REAL ESTATE CLOSINGS
HANDLED BY A NON-ATTORNEY**

I, _____, am acting as the closing agent in this residential real estate transaction and I am required by law to disclose the following:

- 1) I am NOT an attorney.
- 2) I do NOT represent the Buyer.
- 3) I do NOT represent the Seller.
- 4) I represent _____ in the context of this residential real estate closing.
- 5) I CAN NOT and WILL NOT give legal advice in connection with this residential real estate closing.
- 6) If the Buyer or Seller have any legal questions, they should suspend the closing and seek counsel from a Rhode Island attorney.

DO NOT SIGN THIS FORM UNLESS IT WAS THE FIRST DOCUMENT PROVIDED TO YOU AT THE CLOSING.

DO NOT SIGN THIS FORM unless you understand the above warnings.

Buyer's Signature _____ Date: _____

Buyer's Signature _____ Date: _____

Seller's Signature _____ Date: _____

Seller's Signature _____ Date: _____

I, the closing agent, have orally explained the above notice to the buyer and seller before the closing began.

Closing agent's Signature _____ Date: _____