

Real Estate Leasing: Rhode Island

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A Q&A guide to commercial real estate leasing law for landlords and tenants in Rhode Island. This Q&A addresses state laws and customs that impact commercial leasing, including the execution and enforceability of leases, disclosures, transfer taxes, rents and security deposits, permitted assignments, financings, remedies, and automatic terminations in foreclosure actions. 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 Leasing: State Q&A Tool).

Execution and Enforceability

1. Describe any formal requirements for the execution of a lease. In particular specify if:

- Witnesses are required.
- Acknowledgments are necessary.
- Counterpart signatures are enforceable.

For information on whether Rhode Island has adopted electronic signatures, electronic recording, or remote online notarization (RON), see Question 20.

Witnesses

In Rhode Island, witnesses are not required for the execution of a commercial lease in, although it is common practice to have commercial leases witnessed.

Acknowledgments

In Rhode Island, acknowledgments are not required for the execution of a commercial lease.

Counterpart Signatures

In Rhode Island, it is common practice to execute leases in counterparts, and it is generally advisable

to include a provision in the lease stating that counterparts will be deemed one original.

Other Requirements

There are no other relevant requirements to execute a lease in Rhode Island.

2. Must a memorandum of lease (or any other instrument) be recorded for a lease to be enforceable against third parties? If so, must an amendment to a recorded memorandum of lease be recorded if there is a further (material or non-material) amendment to the lease?

In Rhode Island, a memorandum of lease does not need to be recorded for a lease to be enforceable between the landlord and tenant and against third parties with actual or constructive notice.

However, for a lease with a term of more than one year, a memorandum of lease is often recorded, especially if the lease contains certain rights in favor of the tenant such as purchase options. A memorandum of lease should contain:

- The name of the parties to be charged.
- A description of the real estate.

- The duration of the lease, including renewal options and purchase options, if any.

(R.I. Gen. Laws § 34-11-1.)

If a memorandum of lease is recorded, and a subsequent amendment to the lease renders information in the recorded memorandum of lease inaccurate or incomplete, an amendment to the memorandum of lease should be recorded in the applicable land evidence records to ensure that third parties have constructive notice of the matters set forth in the amended lease agreement.

Confirm the necessary recording procedures with a title company or by contacting the applicable recording office directly.

3. Provide the statutory form of acknowledgment for:

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

The Rhode Island General Laws do not prescribe a specific notary clause form of acknowledgment for real estate sale transactions. The sample forms shown 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 §§ 42-301-1 to 42-301-24; Question 20). 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: [MONTH/DAY/YEAR]

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/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 of said [CORPORATION NAME].

[SIGNATURE AND STAMP OF NOTARY]

[PRINTED NAME AND ID NUMBER OF NOTARY]

My commission expires: [MONTH/DAY/YEAR]

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 [LLC 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 of said [LLC NAME].

[SIGNATURE AND STAMP OF NOTARY]

[PRINTED NAME AND ID NUMBER OF NOTARY]

My commission expires: [MONTH/DAY/YEAR]

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 [NAME OF LIMITED PARTNERSHIP] 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 [NAME OF LIMITED PARTNERSHIP].

[SIGNATURE AND STAMP OF NOTARY]

[PRINTED NAME AND ID NUMBER OF NOTARY]

My commission expires: [MONTH/DAY/YEAR]

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 [NAME OF TRUST] 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: [MONTH/DAY/YEAR]

Disclosures, Certifications, and Implied Uses

4. Are there any statutory or legal disclosures required by the landlord or the tenant either at the beginning or end of the lease term? Are there any compliance certificates the tenant may request from the landlord?

In Rhode Island, there are no statutory or legal disclosure requirements for commercial leases for either the landlord or the tenant.

Rhode Island law does not require the landlord to provide compliance certificates when requested by the tenant, unless otherwise agreed on in the lease.

5. Is a lease deemed to include an implied warranty of fitness for intended use?

In Rhode Island, there is no implied warranty of fitness for intended use. The rule of *caveat emptor* governs commercial landlord-tenant relations. (*Whitehead v. Comstock & Co.*, 56 A. 446, 447 (R.I. 1903).)

It is common practice for landlords in Rhode Island to explicitly disclaim the implied warranty of fitness for intended use in commercial leases.

Term, Renewal, and Early Termination

6. Are there any legal restrictions which:

- Limit the maximum term of a lease (including any renewals)?
- Require the landlord to allow the tenant to renew its lease?
- Allow the tenant to terminate its lease before the express expiration date?

Limit on Maximum Term

There are no legal restrictions on the maximum term of a commercial lease in Rhode Island outside of the rule against perpetuities, when applicable.

Tenant Renewal

Rhode Island law does not require the landlord to offer a lease renewal.

Early Termination

In Rhode Island, commercial tenants cannot terminate a lease before the expiration date unless the lease provides otherwise.

7. Is the landlord required to provide the tenant with a notice before the effective date of a renewal when the lease term automatically renews?

Rhode Island does not require the landlord to provide the tenant with notice before the effective date of an automatic lease renewal.

Rent and Security Deposits

8. Are there any legal restrictions on:

- How much rent the landlord may charge?
- Whether certain operating expenses (or other additional rent) may be passed through to the tenant?

Maximum Rent

Rhode Island has no legal restrictions on the amount of rent a landlord may charge for commercial leased space.

Operating Expenses

In Rhode Island, there are no legal restrictions on the types of operating expenses that may be shared or passed through to the tenant under a commercial lease.

9. For security deposits:

- Must the landlord maintain security deposits in a separate bank account for each tenant?
- Must a security deposit be in an interest-bearing account?
- Must the landlord pay all interest earned to the tenant or can the landlord retain a percentage of the interest earned as an administrative fee?

Commingling Permitted

A commercial landlord in Rhode Island:

- Is not required to maintain security deposits in a separate bank account for each tenant.
- May commingle tenants' security deposits with the landlord's own funds.

Interest Bearing Account

Rhode Island does not require commercial landlords to hold security deposits in an interest-bearing account and doing so is not common practice in Rhode Island.

Administrative Fees

Rhode Island does not require commercial landlords to pay tenants any interest earned on the security deposit.

For more information about security deposit requirements across jurisdictions, see [Security Deposit Laws \(Commercial Lease\): State Comparison Chart](#) and Quick Compare Chart: Commercial Security Deposit Laws.

Transfer Taxes and Other Taxes

10. Are any state or local transfer taxes triggered when a lease is signed or in the later assignment of a lease? If so, please specify the:

- Rate for the tax and how it is calculated.
- Returns required.
- Timing for filing the returns and paying the taxes.

There are no transfer taxes in Rhode Island applicable to leases.

Confirm any local transfer tax requirements with a title company or by contacting the applicable taxing authority or recording office.

For more information about transfer taxes across jurisdictions, see [State Transfer Tax Comparison Chart](#) and Quick Compare Chart: State Transfer Taxes.

11. Are state or local transfer taxes triggered when the tenant undergoes a (direct or indirect) transfer of its ownership interests? In particular, please specify the:

- Percentage of ownership interest that triggers the taxes.
- Rates for the taxes and how they are calculated.
- Returns required.
- Timing for filing the returns and paying the taxes.

There are no transfer taxes in Rhode Island applicable to leases or a tenant's transfer of its ownership interests (direct or indirect).

Confirm any local transfer tax requirements with a title company or by contacting the applicable taxing authority or recording office.

For more information about transfer taxes across jurisdictions, see [State Transfer Tax Comparison Chart](#) and Quick Compare Chart: State Transfer Taxes.

12. Describe any state or local taxes (rental or other) that the landlord must collect from the tenant?

Rhode Island does not require landlords to collect state or local taxes from tenants.

Tax assessment, payment, and collection practices vary by jurisdiction. Consult with local counsel or a title company (or contact the applicable taxing authority directly) to verify these details.

Assignment, Financing, and Transfers

13. Describe any laws allowing the tenant to assign its lease, or sublease its premises, without the landlord's consent. Is a reasonableness standard implied when the lease is silent on whether the landlord's consent to an assignment or sublease may be reasonably or unreasonably withheld?

There are no Rhode Island laws regulating whether a tenant of a commercial lease may assign or sublet the lease without the landlord's consent.

It is common practice, however, for landlords and tenants in Rhode Island to negotiate and include assignment and subletting provisions in the lease, including:

- Which transfers or arrangements constitute an assignment or a subletting.
- Whether there are any assignments or subletting that are permissible without the landlord's consent and under what circumstances.
- Whether the landlord may withhold, condition, or delay consent in the landlord's sole discretion or if the landlord must use a reasonable standard.
- Any other details relating to the process for, and consequences of, an assignment or subletting.

Rhode Island common law does not directly address whether a landlord must adhere to a reasonableness standard in granting or withholding its consent when the lease requires the landlord's consent to an assignment or sublease is also silent on whether the landlord's consent may be reasonably or unreasonably withheld.

Case law does indicate that Rhode Island recognizes an implied covenant of good faith and fair dealing in virtually every contract (*Centerville Builder, Inc. v. Wynne*, 683 A.2d 1340, 1342 (R.I. 1996)). A court may therefore impute a reasonableness standard in determining whether a landlord was acting in bad faith

by withholding consent to a proposed assignment or sublease where the lease was silent on the issue.

14. If the lease does not expressly define the term “assignment” and there is no other express restriction in the lease to the contrary can:

- The tenant’s corporate ownership interests be freely transferred without the landlord’s consent?
- The tenant freely place a lien on its leasehold interest, or pledge its corporate ownership interests, in connection with a financing without the landlord’s consent?

Transfer of Ownership Interests

There is no statutory prohibition or other legal restriction against a tenant’s transfer of corporate ownership without a landlord’s consent in Rhode Island. Absent a prohibition or restriction in the lease, a tenant may freely transfer its corporate ownership interests without the landlord’s consent.

Depending on the language in the lease, it is common practice for a tenant to obtain the landlord’s consent before transferring its corporate ownership interests.

Security Lien or Pledge of Ownership Interests

In Rhode Island, there is no statutory prohibition or other legal restriction against a tenant pledging its leasehold interest or ownership interests without a landlord’s consent. Absent a prohibition or restriction in the lease, a tenant may freely place a lien on its leasehold interest or pledge its corporate ownership interests in connection with a financing without the landlord’s consent.

Depending on the language in the lease, it is common practice in Rhode Island for a tenant to obtain the landlord’s consent before securing a lien on its interest in the lease.

It is also common practice in Rhode Island, particularly in the ground lease context, for the landlord and tenant to negotiate and include provisions in the lease concerning:

- A tenant’s ability to place a lien on its leasehold interest.

- Other matters pertaining to leasehold mortgages in general.

Security Lien or Pledge of Ownership Interests

15. When a lease requires a landlord’s consent for an assignment and defines the term “assignment” to include a transfer of the tenant’s corporate ownership interests, would an indirect transfer of the tenant’s interests trigger the landlord’s consent requirement?

In Rhode Island, landlords often draft commercial leases to provide that a transfer of the tenant’s ownership, including a transfer at the parent level, expressly constitutes an assignment of the lease.

Depending on the language in the lease, it is common practice for a tenant to obtain the landlord’s consent before an indirect transfer of its corporate ownership interests.

There are instances where the landlord and tenant negotiate certain carve-outs relating to transfers of corporate ownership interests, deeming transfers that meet certain standards set out in the lease to be “permitted transfers” that do not require the landlord’s consent. The lease will generally still require that the tenant:

- Provide the landlord with notice of the contemplated permitted transfer.
- Deliver certain documentation to the landlord to evidence that the transfer meets the standards set out in the lease.

16. Is the tenant/assignor deemed released from future liability under the lease when the lease is silent on whether the original tenant will be released in the event of an assignment?

In Rhode Island, an assignment does not release the tenant or assignor from future liability under the

lease, absent a provision stating otherwise. Landlords generally do not release the tenant from future liability when the lease is assigned, except under specific circumstances that have been negotiated and drafted into the lease.

17. Describe any restrictions on the landlord's ability to transfer the real property subject to the lease. Does this transfer affect the tenant's rights or obligations?

In Rhode Island, there are no statutory or common law restrictions on the landlord's ability to transfer real property subject to a lease. If a landlord transfers its interest in the real property, the tenant's rights and obligations remain the same (and are enforceable against third parties) unless there is an express provision in the lease to the contrary.

Remedies

18. If a tenant breaches the lease:

- Are there any implied remedies available to the landlord, such as the acceleration of rent?
- Is there a limitation on the landlord's ability to exercise self-help?
- Is there a common form of an eviction proceeding and, if so, what is the typical length of time for the proceeding?
- Are there specific mechanisms for expedited remedies, such as waiver of jury trial or arbitration?
- Is the landlord required to mitigate its damages without an express obligation to do so?

Implied Remedies

Rhode Island courts have generally recognized all remedies reserved by landlords in a commercial lease, including acceleration of rent provisions.

Self-Help

Landlords may not exercise self-help in Rhode Island, regardless of whether the lease reserves the right to self-help. Rhode Island law prohibits the use

of self-help in all circumstances and requires that commercial landlords use only the judicial process to remove tenants who are in default under a lease or those who are otherwise wrongfully in possession of the premises. (R.I. Gen. Laws § 34-18.1-15; see *Turks Head Realty Trust v. Shearson Lehman Hutton, Inc.*, 736 F. Supp. 422, 428 (D. R.I. 1990), *aff'd*, 930 F.2d 905 (1st Cir.1991).)

Eviction Proceeding

While commercial lease provisions control the notice and cure periods for tenant defaults (monetary or non-monetary), the landlord may invoke Section 34-18.1-9 of the Rhode Island General Laws if the lease is silent regarding monetary defaults.

If the tenant's rent is due and in arrears for 15 days:

- The landlord may institute a trespass and action for possession in the district court where the premises are situated:
 - whether demand is made or not; and
 - without notice.
- The court may award a landlord judgment for:
 - possession; and
 - for all rent due plus landlord's costs.

(R.I. Gen. Laws § 34-18.1-9(b)(1).)

The commercial eviction process, from the landlord's filing of the action to the constable's removing the tenant and its property, generally takes three to five weeks, depending on the circumstances.

Expedited Remedies

Landlords and tenants may waive their right to a jury trial or agree to resolve disputes through arbitration. If the parties agree to these expedited remedies, the relevant lease provisions should be conspicuous and in bold type, with all letters capitalized or underlined, or both.

There are no other expedited remedies available to landlords under Rhode Island statutes or common law.

Mitigation of Damages

Under Rhode Island common law, a landlord claiming injury due to breach of contract has a duty to exercise reasonable diligence and ordinary care in attempting to minimize its damages (*Dovenmuehle Mortg., Inc. v. Antonelli*, 790 A.2d 1113, 1115 (R.I. 2002)).

For more information about mitigation of damages across jurisdictions, see [Commercial Landlord's Duty to Mitigate: State Comparison Chart](#) and Quick Compare Chart: Commercial Landlord's Duty to Mitigate.

Automatic Termination of a Lease in a Foreclosure Action

19. When a landlord's lender forecloses on its lien recorded against the landlord's property, would the lease interest that is subordinated to the lender's lien automatically terminate? If so, how do the parties avoid automatic termination of subordinated lease interests?

In Rhode Island, if the lease exists before the landlord's lender's lien, and is not automatically subordinated by its terms to any future landlord's lender's lien, then the tenant's leasehold interest:

- Is not subordinate to the lender's lien.
- Will not be terminated in a foreclosure of the landlord's interest in the premises whether or not the tenant is joined in the foreclosure action.

If, however, the lease is subordinate to the landlord's lender's lien either because the lease came into existence after the lien or because the lease stated it would automatically subordinate to all present and future mortgage liens, then the lease may be terminated in a foreclosure if the landlord's lender chooses not to recognize the lease, unless the landlord, tenant, and lender have previously executed a subordination, non-disturbance, and attornment agreement (SNDA).

Electronic Signatures, Recording, and Notarization Laws

20. 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 laws do not require the transaction parties or recording offices 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 § 42-30.1-1 to 42-30.1-24).

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, 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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