HANDBOOK FOR RHODE ISLAND TOWN AND CITY CLERKS

RHODE ISLAND DEPARTMENT OF REVENUE

LOCAL GOVERNMENT ASSISTANCE

Joseph E. Coduri

2012

HANDBOOK FOR

RHODE ISLAND

TOWN AND CITY CLERKS

Prepared by:

Joseph E. Coduri, Supervisor
John C. Caruso, Principal Program Analyst
Susan D. Moss, Sr. Info. & Public Relations Specialist

Office of Local Government Assistance
Division of Municipal Finance
Rhode Island Department of Revenue
One Capitol Hill
Providence, Rhode Island 02908-5873

September 2012

PREFACE

The primary objective of this handbook is to bring together the many provisions of law which relate to the office, duties and responsibilities of town and city clerks in Rhode Island. It has been written in a manner which provides the reader with a useful reference to the many varied functions which the state law assigns to town and city clerks in Rhode Island.

However, this handbook should not be used as a substitute for the General Laws of Rhode Island. Reference should be made to the exact wording of the law when dealing with a specific subject. This is necessary since laws frequently contain certain exceptions and express various shades of meaning which are not capable of being fully described in this publication. Many of the laws have been subject to various judicial interpretations. Numerous citations to the title, chapter and section numbers of the General Laws are found in parentheses throughout the publication. These citations, which are current through the **2012** session of the General Assembly, should be treated merely as points of reference and not as the entire body of state law on a particular subject. **The Handbook is completely revised each year and is available on our website. A listing of the 2012 changes can be found on the following page.**

Furthermore, this handbook contains only references to the General Laws of Rhode Island - that is, the law which applies generally to all cities and towns within the state. No attempt has been made to incorporate within this publication the special acts and laws which apply only to particular cities and towns. Nor has any attempt been made to incorporate the provisions of home rule charters dealing with town and city clerks. Familiarity with these special acts and charter provisions is necessary to insure the proper use of this handbook.

Joseph E. Coduri
Local Government Assistance

Providence, Rhode Island
September 2012

The following changes to this Handbook were made as a result of amendments to the General Laws in **2012:**

Chapter 2: Public Records and Recording Procedures

Access to Public Records…… pages 3-6
Real Estate Conveyance Tax (Qualified Sale of Mobile Home)…. page 14
Recording Fees (Various Documents)…… page 18

Chapter 3: Records of Land Evidence

Category One Memorial Items…… page 21
Conservation and Preservation Restrictions (Court Actions)…….. page 24
Dams (Orders/Notices Issued by D.E.M.)……... page 25
Liens (Deceased Recipient's Estate for Assistance)……... page 30

Chapter 4: Probate

Practice in Probate Courts (Notice to Health and Human Services).. page 47
Claims (Fiduciary's Affidavit)……... page 53
Limited Guardianship (Annual Status Report)…….. page 58

Chapter 5: Vital Records

Fees…… page 93

Chapter 6: Elections

Registration of Voters (Acknowledgment Notice)……. page 99
Voting Districts and Officials (Polling Places)……... page 103
Mail Ballots (Absentee Voting – UOCAVA)……. page 111

Chapter 7: Licenses

Alcoholic Beverage Licenses (Sunday Sales)……. page 117

Chapter 8: Other Duties and Responsibilities

Notaries Public (Certified Public Accountants)…….. page 132
Well Drillers (Section Repealed)……. page 137

The following changes to this Handbook were made as a result of amendments to the General Laws in **2011:**

Chapter 3: Records of Land Evidence

Historical Cemeteries (Registration and Recordation)……. page 28
Subdivision of Land (Tolling of Expiration Periods)……... page 37
Water Pollution (Recordation of Notices and Orders)…….. page 40
Zoning Ordinances (Tolling of Expiration Periods)……. page 41

Chapter 5: Vital Records

Birth Certificates (Adoptee Vital Records File)…… page 77
Civil Unions …… page 80
Vital Records Fees (Civil Union Licenses)…….. page 92

Chapter 6: Elections

Registration of Voters (Alternate Locations for Voting)…….. page 93
Registration of Voters (Voter Registration Files)……. page 99
Conduct of Election (Voter Identification)…… page 108
Conduct of Election (Provisional Ballot Procedures)…… page 108
Conduct of Election (Time of Closing Polls)…… page 108
Mail Ballots (Validity of Mail Ballots and Applications)……. page 110
Mail Ballots (Voting from the Board of Canvassers)…… page 112
Presidential Preference Primaries (Date to be Held)…..... page113
Presidential Preference Primaries (Submission and Certification of Papers)……. page 113

Chapter 7: Licenses

Alcoholic Beverage Licenses (Police Details)……... page 115

Chapter 8: Other Duties and Responsibilities

Open Meetings (Public Notice by School Committees)…… page 132
Tax Roll (Date of Certification of Tax Roll)……. page 135

The following changes to this Handbook were made as a result of amendments to the General Laws in **2010:**

Chapter 2: Public Records and Recording Procedures

Recording Fees (Bail Property Liens)……. …….. page 18

Chapter 3: Records of Land Evidence

Conservation and Preservation Restrictions (Attorney General Enforcement).. page 24
Subdivision of Land (Tolling of Expiration Periods)……. page 36
Zoning Ordinances (Tolling of Expiration Periods)……... page 40

Chapter 6: Elections

Updating of Voter Registration Records……... page 97

Chapter 7: Licenses

Signature on Retail Licenses……. page 113

The following changes to this Handbook were made as a result of amendments to the General Laws in **2009:**

Chapter 2: Public Records and Recording Procedures

Recording Fees (Discharge of Lis Pendens – Bailbondsman)……. page 18

Chapter 3: Records of Land Evidence

Condominiums (Unincorporated Associations)……... page 23
Conservation and Preservation Restrictions (Conservation Easement)……... page 24
Subdivision of Land (Tolling of Expiration Periods)……... page 36
Zoning Ordinances (Tolling of Expiration Periods)……. page 40

Chapter 4: Probate

Management of Estates (Conservation Easement)…… page 50

Chapter 5: Vital Records

Marriage Licenses (Disease Information Packet – Repealed)…… page 78

Chapter 6: Elections

Registration of Voters (Pre-registration)…… page 98
Voting Districts and Officials (Appointment of Clerks and Moderators)……. page 100
Mail Ballots (Victims of Domestic Violence)…… page 108

Chapter 7: Licenses

Alcoholic Beverage Licenses (Class T – Legitimate Theater License)……. page 113

The following changes to this Handbook were made as a result of amendments to the General Laws in **2008**:

Chapter 3: Records of Land Evidence

Condominiums (Foreclosure of Condominium Lien)…….. page 23
Mechanic's Lien (Notice of Lien)…… page 29
Mortgages (Foreclosure Deed)……. page 32
Subdivision of Land (Planning Board Decisions)…… page 36
Zoning Ordinances (Accessory Family Dwelling Unit)…….. page 39

Chapter 4: Probate

Custody and Probate of Wills…… page 43
Practice in Probate Courts (Contents of Petitions)…….. page 45
Claims……..... page 51
Limited Guardianship (Good Samaritan Guardians)……... page 56
Guardianship of Minors (Guardian ad Litem Report)……. page 58

Chapter 5: Vital Records

Duties of Local Registrars (List of Deaths)……. page 69
Duties of State Registrar (List of Deaths)…… page 71

Chapter 6: Elections

Boards of Canvassers (Publication of Local Questions)……. page 91
Registration of Voters (Voter Registration Files)…… page 95
Canvassing Lists of Qualified Voters (Purging Deaths from Lists)…… page 99
Voting Districts and Officials (High School Students)…… page 100

Chapter 7: Licenses

Alcoholic Beverage Licenses (Class AS License)…… page 113
Alcoholic Beverage Licenses (Alcohol Server Training)……. page 113

Chapter 8: Other Duties and Responsibilities

Ordinances (Notice Provision)……. Page 129

The following changes to this Handbook were made as a result of amendments to the General Laws in **2007:**

Chapter 2: Public Records and Recording Procedures

Historical Records Trust (Fees)…….. page 9
Real Estate Conveyance Tax (Distressed Communities Contribution Deleted).. page 15

Chapter 4: Probate

Probate Practice (Notice Provisions)…… page 46
Probate Practice (Recordation of Proceedings)…… page 47
Guardians ad Litem (List of Persons Qualified to Serve)……. page 54
Access to Decedents' Electronic Mail Accounts…… page 60
Judicial Review of Probate Court Decisions (Filings Required)…….. page 63

Chapter 5: Vital Records

Certificates of Birth Resulting in Stillbirth…… page 71
Vital Records Fees……. page 88

Chapter 6: Elections

Boards of Canvassers (Employee Members)……... page 89
Re-registration (Notification to Secretary of State)……. page 93
Registration of Voters (Acknowledgement and Confirmation Notices)…….. page 94
Primary Elections (Filing of Nominations)…….. page 101
Presidential Preference Primaries (Petitions and Nomination Papers)……. page 108

Chapter 7: Licenses

Alcoholic Beverage Licenses (Temporary Seasonal Expansion)…… page 110

Chapter 8: Other Duties and Responsibilities

Open Meetings (Members with a Disability)……... page 126
Certification of Tax Rolls……... page 129

The following changes to this Handbook were made as a result of amendments to the General Laws in **2006:**

Chapter 2: Public Records and Recording Procedures

Public Records and the Attorney General……. page 5

Chapter 3: Records of Land Evidence

Sale Price Recording (Conveyances of Land)……..……. page 24
Mechanic's Liens…….. page 29
Sale Price Recording (Mobile Homes)……..... page 30
Real Estate Rights……. page 33
Tax Liens……..… page 37

Chapter 4: Probate

Certificates of Descent……..… page 49
Notice of Devise or Bequest…… page 52
Certificates of Descent…….. page 61

Chapter 5: Vital Records

Certificates of Foreign Birth……. page 74

Chapter 6: Elections

Restoration of Voting Rights…… page 89
Registration at Designated Agencies……. page 91
Preliminary Lists of Voters…… page 97
Primary Voting Lists…….. page 98
Primary Elections……... page 100
Unlisted Voters…….. page 100
Combination of Voting Districts……... page 101
Ballots for Blind, Visually Impaired or Disabled….…… page 102
Certified Voting Lists……... page 103
Temporary Registration Certificates & Election Results……..… page 103
Mail Ballots……..… page 104
Election Supervisors and Counting Mail Ballots…….…… page 106

Chapter 7: Licenses

Class C Licenses on Sunday and Caterer's Licenses…… page 110

Chapter 8: Other Duties and Responsibilities

Dogs and Cats…….. page 119
Public Meetings – School Committees……... page 125

TABLE OF CONTENTS

		PAGE
CHAPTER 1:	THE OFFICE OF TOWN CLERK	1
CHAPTER 2:	PUBLIC RECORDS AND RECORDING PROCEDURES	3
CHAPTER 3:	RECORDS OF LAND EVIDENCE	19
CHAPTER 4:	PROBATE	43
CHAPTER 5:	VITAL RECORDS	71
CHAPTER 6:	ELECTIONS	94
CHAPTER 7:	LICENSES	116
CHAPTER 8:	OTHER DUTIES AND RESPONSIBILITIES	125
INDEX		138

CHAPTER 1

THE OFFICE OF TOWN CLERK

ELECTION

Every town must elect a town clerk unless a special act or municipal charter provides another method of choosing the town clerk. Elected town clerks hold office for a term of two (2) years. An elected town clerk must be an elector of the town at the time of election. The Town Clerk is elected prior to the town council in the order on the ballot (45-4-7). All city clerks in Rhode Island are appointed.

The mayor of every city and the town council president of every town must send to the secretary of state a certificate of the election of the town or city clerk. The certificate must be kept on file in the office of the secretary of state (45-4-5).

OATH OF OFFICE

Unless some other form of engagement is specifically prescribed by law, every person elected to any town or city office must take the following engagement before he shall act therein, before some person authorized to administer oaths:

"You (naming the person) do solemnly swear (or, affirm) that you will be true and faithful unto this state, and support the laws and constitution thereof, and the constitution of the United States; and that you will well and truly execute the office of (naming the office) for the term for which you have been elected, or until another be engaged in your place, or until you be legally discharged therefrom; so help you God (or this affirmation you make and give upon peril of the penalty of perjury)" (45-4-11).

OFFICIAL BOND

Within 30 days after being sworn into office, the town clerk must give bond to the town treasurer in an amount prescribed by the town council, with sufficient surety, for the faithful performance of his duties (45-7-1).

VACANCY IN OFFICE

When a town clerk is elected and his office becomes vacant for any reason, the vacancy is filled by the town council until the next town election (45-4-16, 45-5-6). If the town council fails to fill the vacancy, the town treasurer may issue his warrant calling for a special election to fill the vacancy (45-3-l0).

DEPUTY TOWN CLERK

Town clerks may appoint a deputy town clerk who, when properly sworn and bonded, has all the powers and performs all the duties which are incumbent on the town clerk. The appointment of a deputy town clerk must be approved by the town council (45-7-2).

In addition to the deputy town clerk, the town clerk may appoint additional deputies who are empowered only to register voters (45-7-3).

The Town Clerk is responsible for the good conduct of the deputy and may take Bond with surety in such penalty as he may require, conditioned for the faithful Discharge of the duties of the office for the time during which the deputy shall exercise the same. The town clerk may revoke the appointment and cancel the bond at his discretion (45-7-4).

TOWN CLERK PRO TEMPORE

Whenever it shall satisfactorily appear to the town council that the town clerk is disqualified, from any cause whatsoever, to exercise and perform the several duties of the office of town clerk, they may and shall appoint a town clerk pro tempore. The town clerk pro tempore shall be duly qualified and shall be authorized to perform all the duties of town clerk, until the disability of the town clerk is, in the opinion of the town council, removed, or until a town clerk is legally elected by the town (45-5-7).

CLERK OF THE TOWN COUNCIL

The town clerk is clerk of the town council; but whenever a town clerk does not appear at the time and place appointed for the meeting of the town council, the town council may appoint a clerk pro tempore, who, after being duly engaged, shall do and perform all the duties enjoined by law on the town clerk as clerk of the town council
(45-5-5).

Whenever from any cause a quorum of the town council is not present at the time for any regular meeting of the council, the council clerk must continue all business and proceedings returnable to or pending before the council to the next regular meeting of the council (45-5-4). As clerk of the council, the town clerk issues the various licenses issued by the authority of the town council under its licensing powers.

FALSE PERSONATION

Every person who shall falsely assume or pretend to be a city or town clerk and shall act as such, shall be imprisoned not exceeding one (1) year or be fined not exceeding $1,000 (11-14-1).

PENALTIES

Any clerk or recording officer of any city or town council who refuses or neglects to record in full the proceedings of any body of which he may be clerk shall be fined for each such neglect or refusal not less than $200 nor more than $1,000 (11-28-3).

Every officer appointed by any town in the state, whose fees are stated by law, who shall corruptly exact or extort any more or greater fees for any service than by law are stated and allowed, shall be imprisoned not exceeding one (1) year or be fined not exceeding $1,000 (11-42-1).

CHAPTER 2

PUBLIC RECORDS AND RECORDING PROCEDURES

CUSTODY AND PROTECTION OF PUBLIC RECORDS

Definition of Public Records. Public records are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency **(quasi-public agencies added)** (38-1-1.l). **(2012)**

Custodian Designated. The elected or appointed municipal officer or officers charged by law with the responsibility of maintaining the office having public records shall be the custodian of those records (38-1-9).

Delivery of Records on Leaving Public Office. Every public official upon leaving office must deliver to his successor in office, or, if there is no successor, to the public records administration program of the **office of secretary of state**, all records, books, writings, letters, and documents, kept or received by him, in the transaction of his official business, and to the director of the department of administration all money in his hands which he shall have received as trust funds from any person or otherwise in the course of his official business (38-1-1). (2000)

If a public official, without just cause, refuses or neglects to deliver the records or moneys to the authorized person within ten (10) days after a request is made in writing by any citizen of the state, the public official shall be fined not exceeding $500 and be imprisoned not exceeding five (5) years (38-1-1).

Delivery of Records to Lawful Custodian. Every person, other than the lawful custodian, who has in his possession or under his control, any of the records designated in 38-1-1 and who, under the same conditions, refuses to deliver them to the lawful custodian, shall be fined not exceeding $500 and be imprisoned not exceeding five (5) years (38-1-2).

Receptacles For City and Town Records. It is the duty of every city and town to provide fireproof receptacles for records and documents relating to the official business of the city or town so that they may be kept free from injury from any cause. The receptacles must be of suitable type and subject to the approval of the state public records administrator. If any city or town fails to provide the fireproof receptacles, it is the duty of the state public records administrator to furnish the city or town with suitable receptacles, at the expense of the city or town (38-1-3).

Keeping of Records in Vaults. When not in use, the records and documents must be kept in the fireproof rooms, vaults or safes provided for them. Any person who unlawfully keeps in his possession any public record, or unlawfully removes the public record from the room in which it is usually kept, or alters, defaces, mutilates or destroys any public record shall, for each offense, be punished by a fine of not less than $20.00 nor more than $500 (38-1-4).

Disposal of Records. No public official may mutilate, destroy, sell, loan or otherwise dispose of any public record without the consent of the Public Records Administration program of the Secretary of State. (38-1-10).

Damage of Records. Any person who willfully, maliciously or wantonly writes upon, injures, defaces, tears, cuts, mutilates or destroys any book, record, or other property belonging to or in the custody of any repository of public records shall be guilty of a misdemeanor and shall be ordered to make restitutions, and may be fined not more than $100 (11-44-15).

ACCESS TO PUBLIC RECORDS

Right to Inspect and Copy Records. All records maintained or kept on file by any public body, whether or not the records are required by any law or by any rule or regulation, must be public records. Every person shall have the right to inspect and/or copy the records at a reasonable time as may be determined by the custodian of the records (38-2-3). See 38-2-2 for a list of records not deemed public **(See 38-2-2(A) for 2012 amendments)**. Records reflecting the financial settlement of public bodies of any legal claims against a governmental entity shall be deemed public records (38-2-14).

Minutes of Meetings. Each public body must make, keep and maintain written or recorded minutes of all meetings (38-2-3)**(c).** **(2012)**

Procedures for Access. Each public body must establish **written** procedures regarding access to public records, but shall not require written requests for public information available pursuant to the Administrative Procedures Act or for other documents prepared for or readily available to the public. **These procedures must include the identification of a designated public records officer or unit, how to make a public record request, and where a public record request should be made, and a copy of these procedures posted on the public body's website. A written request need not be made on a form established by the public body if readily identifiable as a request for public records** (38-2-3**(d).** **(2012)**

A public body receiving a request must permit the inspection or copying within ten (10) business days after receiving a request. If the inspection or copying cannot be completed with the 10 days, an explanation in writing for additional time to comply must be provided. The public body has an additional twenty (20) business days to comply with the request if certain criteria are met (38-2-3**(e).** **(2012)**

If a public record is in active use or in storage and, therefore, not available at the time a person requests access, the custodian must so inform the person and make an appointment for that person to examine the records as expeditiously as the records may be made available (38-2-3)**(f)**. **(2012)**

Any person or entity requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. Any public body which maintains its records in a computer storage system, shall provide any data property identified in a printout or other reasonable format, as requested (38-2-3)**(g)**. **(2012)**

A public body is not required to reorganize, consolidate, or compile data not maintained by the public body in the form requested at the time the request to inspect the public records was made, except to the extent that such records are in an electronic format and the public body would not be unduly burdened in providing the data (38-2-3)**(h).** **(2012)**

No public records shall be withheld based on the purpose for which the records are sought **nor shall a public body require that a reason for the request or personally identifiable information be provided** (38-2-3)**(j).** **(2012)**

Records required. All records required to be maintained pursuant to this chapter shall not be replaced or supplemented with the product of a **"real translation reporter"** (38-2-3.1). (2000)

Costs. Cities and towns must allow copies to be made or provide copies of public records. The cost per copied page of written documents provided to the public shall not exceed 15 cents per page for documents copyable on common business or legal size paper. A public body may not charge more than the reasonable actual cost for providing electronic records **or retrieving records from storage when the public body is assessed a retrieval fee** (38-2-4). **(2012**

A reasonable charge may be made for search or retrieval of documents. Hourly costs for the search and retrieval shall not exceed $15.00 per hour. No costs shall be charged for the first hour of the search or retrieval. **Multiple requests by any person to the same public body within a thirty (30) day time period is considered one request** (38-2-4)(b). **(2012)**

Copies of documents shall be provided and the search and retrieval of documents accomplished within a reasonable time after a request. An estimate of the costs of a request for documents must be provided prior to providing copies (38-2-4)(c). (1998)

Upon request, the public body shall provide a detailed itemization of the costs charged for search and retrieval (38-2-4)(d). (1998)

Commercial Use. ***{ No person or business entity shall use information obtained from public records: (1) to solicit for commercial purposes or (2) to obtain a commercial advantage over the party furnishing that information to the public body (38-2-6). Repealed }*** **(2012)**

Denial of Access. Any denial of the right to inspect or copy records, **in whole or in part,** must be made within 10 days of the request to the requesting party ~~by the official who has custody or control of the public record.~~ The denial, which must be in writing, must give the specific reasons for the denial and must indicate the procedures for appealing the denial. Failure to comply with a request to inspect or copy a public record within 10 business days shall be deemed to be a denial. **All copying and search and retrieval fees are waived if a public body fails to produce the requested records in a timely manner. A public body that receives a request to inspect or copy records that do not exist or are not within its custody or control shall state that it does not have or maintain the records** (38-2-7). **(2012)**

Administrative Appeals. Any person denied the right to inspect a record of a public body ~~by the custodian of the record~~ may petition the chief administrative officer of that public body for a review of the determinations made by his/her subordinate. The chief administrative officer must make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition (38-2-8). **(2012)**

If the **custodians of the records or** chief administrative officer determines that the record is not subject to public inspection, the person seeking disclosure may file a complaint with the attorney general (38-2-8). **(2012)**

Nothing within this section prohibits the attorney general from initiating a complaint on behalf of the public interest (38-2-8). **(2006)**

Records Access Continuing. All records initially deemed to be public records shall continue to be deemed public records whether or not subsequent court action or investigations are held pertaining to the matters contained in the records (38-2-13).

Compliance by Agencies and Public Bodies. Not later than January 1, 2013, and annually thereafter, the chief administrator of each public body must state in writing to the Attorney General that all officers and employees who have the authority to grant or deny persons access to records have been provided orientation and training (38-2-16). (2012)

PUBLIC RECORDS ADMINISTRATION

The Public Records Administration was established under the "Public Records Administration Act" (38-3-1 to 7). The program enacted in 1981 has the right to examine the condition of public records and is required to give advice and assistance to public officials in the solution of their problems of presenting, creating, filing and making available the public records in their custody (38-1-11).

Public officials (including city and town clerks) are required, when requested, to assist the Public Records Administrator in the preparation of records control schedules of public records in their custody. The schedules must be approved by the head of the agency having custody of the records (38-1-11).

Destruction of original records. Any city or town department or agency may destroy their original records which are kept or recorded in the regular course of business or activity provided that:

(1) The department or agency has caused any or all of the records to be recorded, copied or reproduced by a photographic, photostatic, microfilm, micro-card, optical disk, miniature photographic or other process which accurately reproduces or forms a durable medium or reproducing the original; and

(2) The process of destroying the records meets standards established by the public records administrator; and

(3) All the provisions of section 38-3-6 of the general laws concerning the disposal of public records are fulfilled (38-3-5.1).

Public Records Custody and Disposal. The duties and responsibilities of the Public Records Administration under 38-3-6 include: (1) Each agency (including cities and towns) shall prepare and submit to the program, in accordance with the rules and regulations of the program, record control schedules for all public records in the custody of the agency. (Requests for retention schedules should be directed to the Public Records Administrator.
Use RI/PRA Form 3A).

(2) The offices of the Attorney General and the Auditor General will advise the program on the legal and fiscal values of records covered by proposed records control schedules. (All records retention schedules are approved by the Public Records Administrator, Auditor General and Attorney General).

(3) Those records which are determined by an agency not to be needed in the transaction of current business but which, for legal or fiscal requirements, must be retained for specific time periods beyond administrative needs shall be sent to the State Records Center. The records will be kept in the center until time for disposition as provided in record control schedules. (The State Records Center is administered by the Public Records Administration).

(4) Public records possessing permanent value as determined by approved records control schedules shall be transferred to the Public Records Repository when no longer needed by an agency in transaction of current business. (The Public Records Repository is administered by the Public Records Administration).

(5) Title to any record placed in the State Records Center shall remain in the agency placing such record in the center.

(6) Title to any record transferred to the Public Records Repository, as authorized in this chapter, shall be vested in the program.

(7) The program shall preserve and administer such public records as shall be transferred to its custody according to approved conservation and security practices, and to permit them to be inspected, examined and copied at reasonable times and under supervision of the program; provided that any record placed in keeping of the program under special terms or conditions restricting their use shall be made available only in accordance with such terms and conditions.

(8) Provide a public research room where, upon policies established by the Program, the records in the Public Records Repository may be studied.

(9) The program may make certified copies under seal of any records transferred to it upon the application of any person, and said certificates, signed by the administrator or his designee, shall have the same force and effect as if made by the agency from which the records were received. The program may charge a reasonable fee for this service.

(10) No public record shall be destroyed or otherwise disposed of by any agency without prior notice to the program. (Requests for approval to destroy public records should be directed to the Public Records Administrator. Use RI/PRA Form 003).

(11) The program shall adopt reasonable rules and regulations not inconsistent with this chapter relating to the destruction and disposal of records. Such rules and regulations shall provide but not be limited to:

(a) Procedures for preparing and submitting record control schedules to the program.

(b) Procedures for the physical destruction or other disposal of records.

(c) Standards for the reproduction of records for security or with a view to the disposal of the original record. (Standards for filming and processing microfilm, Administrative Code REC-1, are available from the Public Records Administration).

(12) The program shall:

(a) Establish safeguards against unauthorized or unlawful removal or loss of records.

(b) Initiate appropriate action to recover records removed unlawfully or without authorization.

(13) The program may prepare and publish handbooks, guides, indexes and other literature directed toward encouraging the management, preservation and use of the state's public records resource.

STATE ARCHIVES AND HISTORICAL RECORDS

Under the State Archives and Historical Records Act, which became law in 1989, the State Archivist is responsible for formulating programs for public records of permanent historical or other value. Among the records to which this law applies, are those public records of cities and towns, fire districts, school districts and water districts (42-8.1-5).

The State Archivist is also authorized to accept for deposit the records of any city, town, fire district, school district or water district that are determined to have sufficient historical or other value to warrant their continual preservation of the State Archives. The State Archivist is authorized to establish a local government records program to assist cities and towns with the care and management of their public records. The program is charged with providing a training program for local government record keepers; publishing retention schedules and providing technical and advisory assistance in the storage, preservation and maintenance of local government records. (42-8.1-7).

Protection of records. Every local custodian of public records must carefully protect and preserve the records from deterioration, mutilation, loss or destruction and, whenever advisable, shall cause them to be properly repaired and restored (42-8.1-8).

Access to records. The State Archivist has the right of reasonable access to all public records in the State, including those public records in cities, towns, fire districts, school districts and water districts (42-8.1-9).

Disposal of records. In order to determine whether records are of permanent legal or historical value, every local custodian of public records must consult periodically with the State Archivist, the State Auditor General and the State Attorney General. Those records unanimously determined not to be of permanent legal or historical value must be disposed of by the method specified in 38-3-6 of the General Laws. A list of all records disposed of, together with a statement certifying compliance with section 38-3-6, signed by the State Archivist, must be filed and preserved in the office from which the records were drawn (42-8.1-10).

Transfer of records. If records are deemed to be of permanent or historical value, they may be transferred, with the consent of the State Archivist, to the custody of the State Archives. A list of all records transferred, together with a statement certifying compliance with the law, signed by the state archivist, must be preserved in the files of the office from which the records were drawn (42-8.1-11).

Reproduction of records. All public officers of cities, towns, fire districts, school districts and water districts may cause any or all public records, paper or documents kept by them to be photographed, microphotographed, or reproduced on film or non-erasable optical disc or through other processes which accurately reproduce or form a durable medium for reproducing and preserving the original records. The reproduction process must comply with the standards approved for the reproduction of permanent records under 38-3-5.1 of the General Laws (42-8.1-13).

Whenever the reproduced records are placed in conveniently accessible files and provision is made for preserving, examining and using them, the public officer may destroy the original records according to methods prescribed in 38-1-10 and 38-3-6 of the General Laws. The reproduced records must be certified by their custodian as true copies of the originals before the originals are destroyed or lost (42-8.1-13).

Duties of local agencies. Under this act, it is the duty of every city, town, fire district, school district and water district to:

1. Maintain records containing adequate and proper documentation of its organization, functions, policies, decisions, procedures and essential transactions.

2. Cooperate fully with the State Archives in complying with the provisions of the "State Archives and Historical Records Act" (42-8.1).

3. Establish and maintain an active and continuing program for the preservation of records and permanent legal or historical value.

4. Establish necessary safeguards against the removal or loss of records. One Such safeguard must include notification to all its officials and employees that no records due are to be alienated or destroyed except in accordance with 38-1-10 and 38-3-6 of the General Laws.

5. Designate a records officer who must establish and operate an archives and records management program.

HISTORICAL RECORDS TRUST

According to the Rhode Island Historical Records Trust Act (42-8.1-20), an additional assessment of **$4.00** for every instrument filed for recording under 34-13-7 (recording fees) and 33-22-21 (probate fees) of the General Laws is imposed.

On the first of every month, the city or town clerk must send to the State Archives **$3.00** of the additional assessment collected for deposit in the Rhode Island Historical Records Trust. According to procedures prepared by the State Archives, checks should be made payable to "Rhode Island State Archives" and be accompanied by a transmittal sheet, which should include information about the number of filings received.

The remaining **$1.00** of the additional assessment remains with the city or town and must be deposited in a local Historical Records Trust Fund maintained by the city or town. The expenditure of these monies is restricted solely to the preservation of public records of historical value maintained by the city or town clerk or by a municipal archives. **(2007)**

RECORDING OF INSTRUMENTS

Instruments eligible for recording. According to 34-13-1, any of the following instruments must be recorded or filed by the town clerk or recorder of deeds, in the manner prescribed by law, on request of any person and on payment of the lawful fees:

1. Letters of attorney.

2. All contracts for sale of land.

3. Bonds for title or covenants or powers concerning lands, tenements and hereditaments.

4. All notices to be filed under the provisions of 9-4-9 (lis pendens).

5. All notices and process to be filed under other statutory provisions, and all decrees in equity and judgments at law affecting the title to land.

6. All instruments evidencing or relating to a security interest in personal property or fixtures that may be filed pursuant to chapter 9 of title 6A (Uniform Commercial Code).

7 All instruments required by statute to be recorded, including deeds, mortgages and transfers and discharges thereof, leases or memoranda thereof and transfers and cancellations thereof, and the covenants, conditions, agreements and powers therein contained.

8. Instruments of defeasance.

9. Instruments (excepting wills) creating trusts.

10. All instruments and notices, affecting, or purporting to affect, the title to land or any interest therein or giving or terminating the right to sever any building or part thereof or fixture, when signed and acknowledged as required for deeds.

11. All affidavits as to family facts, including dates of birth, marriage and death which relate to title to land.

12. All affidavits as to bounds and monuments of land.

13. All certificates of the secretary of state as to change of corporate name.

14. All original linen and/or original mylar maps, plats, surveys and drawings, whether or not attached to, or a part of, another recordable instrument, provided, however, that those requiring the approval of any council, commission, officer, or other body by law shall not be recorded without such approval.

    All survey plans received for recording shall be drawn on archival mylar or linen, those of which shall not exceed a size of 24” x 36” and shall be recorded as originally drafted.

An index of survey plans shall be maintained indicating (a) the title of the plan; and (b) the street(s) or road(s) on which the subject property abuts. The plans shall include a separate listing, in or attached to the legend on the plan, of all streets and roads on which the subject property abuts.

15. All declarations of restrictions and covenants in connection with a plat of record or to be recorded or with a tract or parcel of land which is to be Subdivided.

16. Statements of covenants, conditions and powers of sale which are intended to be incorporated in mortgages by reference.

Recording as constructive notice. Such record or filing shall be constructive notice to all persons of the contents of such instruments and other matters so recorded, so far as the same are genuine (34-13-2).

Receiving book. Whenever any instrument entitled to record is presented for record, the town clerk or recorder of deeds must write on it the day, the hour and the minute when it was presented for record. The town clerk must then enter the instrument, in the order of presentment, in a receiving book to be kept for that purpose (34-13-4).

General index. The town clerk or recorder of deeds must make and keep a separate alphabetical general index of all deeds, mortgages and other instruments recorded in the office. The index must refer to the book and page of the records wherein the deeds, mortgages and other instruments are recorded. Mortgage discharges and assignments of mortgage must be indexed under the names of all parties to the original mortgage instrument and all subsequent assignees of parties to the original instrument (34-13-5).

Certified copies. If any instrument has been recorded or filed by a town clerk, city clerk or recorder of deeds, in the manner prescribed by law, a duly certified copy of the instrument by the proper official may be recorded or filed in the office of any town clerk, city clerk or recorder of deeds wherein the original might properly have been recorded or filed. When a certified copy of the instrument has been recorded or filed, it has the same effect as a recording or filing of the original instrument (34-13-6).

Change in name. Whenever the name of any person, corporation or limited liability company owning real estate or having an interest therein has been changed, **or** whenever any corporation has been merged into or consolidated with another, **or** whenever any general or limited partnership has converted to a limited liability company, a certificate, duly acknowledged, notarized, giving the name before and after the change, merger, consolidation or conversion must be filed with the city or town clerk or the recorder of deeds of the city or town in which the real estate is located. The certificate, which must be filed within 60 days after the change, merger, consolidation or conversion, must be recorded and indexed in the land records by the town clerk or recorder of deeds (34-13-11). (1999)

Conveyance prior to change of name. Whenever any person or corporation conveys property acquired prior to a change of name, they must state in the instrument of conveyance the name under which they acquired the property. The town clerk or recorder of deeds must index the record of the instrument in the name under which the property was acquired and in the name under which it was transferred (34-13-12). (1999)

Electronic Records.

1. **Electronic records and signatures**. If a law requires a record to be in writing, an electronic record satisfies the law. If a law requires a signature, an electronic signature satisfies the law (42-127.1-7).

2. **Presentation of records**. If a law, other than this chapter, requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:

   (a) The record must be posted or displayed in the manner specified in the other law;

   (b) Except as otherwise provided in section 42-127.1-8(d)(2), the record must be sent, communicated, or transmitted by the method specified in the other law;

   (c) The record must contain the information formatted in the manner specified in the other law (42-127.1-8).

3. **Retention of electronic records – Originals**. (a) If a law requires that a record be retained, the requirements are satisfied by retaining an electronic record of the information in the record which:

   (1) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

   (2) Remains accessible for later reference.

   (b) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a).

   (c) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a).

   (d) A record retained as an electronic record in accordance with subsection (a) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this chapter specifically prohibits the use of an electronic record for the specified purpose (42-127.1-12).

4. **Acceptance and distribution of electronic records by governmental agencies**. Except as otherwise provided in section 42-127.1-12(f) each governmental agency of the state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures (42-127.1-18). (2000)

REAL ESTATE CONVEYANCE TAX

Chapter 89 of the 1968 Public Laws imposed a tax on each deed, instrument or writing by which any lands, tenements or other realty sold are granted, assigned, transferred, vested in or conveyed to another person when the consideration paid exceeds $100. This tax replaces the former realty transfer tax and the federal documentary tax (44-25-1).

The payment of the tax is evidenced by the affixing of a documentary stamp or stamps to every original deed by the person making, executing, delivering, accepting or presenting the deed for recording. In the absence of an agreement to the contrary, the tax is paid by the grantor.

(1998)

Taxable transactions. The real estate conveyance tax applies to the following:

1. Every transaction whereby any interest in lands, tenements or other realty is sold within the state, unless specifically exempted by law. The tax is payable regardless of the place where the deed is made, executed, delivered or accepted.

2. **Deeds of fiduciaries in insolvency proceedings** - In the event of a sale of real property by a receiver, trustee, or an assignee (to whom an assignment has been made for the benefit of creditors), the stamps required to be affixed to the deed must be based upon the price paid by the purchaser including the face value of any prior lien or encumbrance remaining thereon at the time of the sale.

If the property to be included in the sale embraces personalty as well as realty, the fiduciary, by petition, should cause the court to fix the amount of the proceeds of the sales attributable to personalty and to realty.

When a sale is made by any such fiduciary, the purchaser, under the terms of the sale, may be required by the fiduciary to pay the real estate conveyance tax. In which case the purchaser must purchase and affix the required stamps at the time he records the deed.

3. **Deeds of marshalls, sheriffs and constables** -In the event of a sale of real property by a United States marshal, or by a sheriff or constable by execution upon a judgment, or otherwise, (but not upon the foreclosure of a mortgage) the stamps required to be affixed to the deed must be based upon the price bid by the purchaser. Under the terms of the sale, the purchaser may be required by the officer to pay the real estate conveyance tax.

4. **Exchanges of interest in real estate**-In a case where the parties exchange between themselves two properties, the deeds transferring title to each are subject to the tax computed on the basis of the full and fair cash value of the interest in each property conveyed including the amount of any liens or encumbrances remaining on the property at the time of the sale.

5. **Deeds of easements**-Deeds of easement are subject to the tax based on the actual consideration where the consideration exceeds $100.

6. **Deeds by an executor to devisees**-Deeds by an executor to the devisees which convey the specific parcels of real estate willed to the devisees are not subject to the tax unless the devisees receive a greater share in the real estate than they are entitled to receive under the will. In which event the tax must be computed upon the consideration paid for such excess; and where no consideration is paid, the tax does not apply.

7. **Charitable, educational organizations, etc**.- The law does not provide any general exemption for the sale of real estate to or from charitable, educational, eleemosynary, industrial development foundations, or other non-profit organizations.

8. **Deeds conveying land with standing timber**-Deeds conveying land with standing timber are taxable and the consideration paid for the timber must be included in the total purchase price paid. Any instrument containing an agreement for the sale of standing timber represents a transfer of a beneficial interest in realty and is subject to the tax. If, however, the instrument provides for the severance and removal of the timber within an immediate ascertainable date, then the timber will be considered tangible personal property and exempt from the real estate conveyance tax.

9. **Liens and other encumbrances**- The amount of stamps required to be affixed to the instrument must be computed by the price paid plus the face value of any liens or other encumbrances remaining on the real estate at the time of the sale, and which the purchaser obligates himself to pay as part of the total consideration. An amount less than the face value must be used if it can be shown that the actual amount due is less than the face value.

Exempt transactions and parties. The following sales of real estate are specifically exempted from the real estate conveyance tax:

1. A transfer by will is exempt. Also exempt are transfers by intestacy and transfers under adjudication of the probate court allocating real estate to a widow as part of her allowance.

2. Leases are exempt.

3. Mortgages themselves are exempt. The tax does not apply to any instrument or writing given to secure a debt (44-25-2).

4. **Qualified sale of a mobile or manufactured home community to a resident-owned organization as defined in section 31-44-1** (44-25-2). **(2012)**

5. Transfers where no consideration is actually paid for the real estate conveyed. In such cases the deed must contain a statement that "consideration is such that no stamps are required."

6. Any transfer of real estate or interest therein to or from the Rhode Island Depositors Economic Protection Corporation (42-116-24[c]).

7. Transfers where the consideration paid does not exceed $100. The same kind of statement is required.

8. Sales by the following grantors:
   a) by the United States or by any of its agencies or instrumentalities.

   b) by the State of Rhode Island or by any of its agencies or instrumentalities. This includes Public Building Authorities, Recreational Building Authorities and Industrial Building Authorities.

   c) by any city or town of this state. Sales by any city or town housing authority are exempt. Redevelopment agencies are not exempt.

   d) by any political subdivision of this state. Sales by any of the following quasi-municipal corporations, namely, fire, water, sewer and school districts are exempt.

The exemption applies to the respective governments, their agencies or instrumentalities, and the several authorities when they appear as grantors in the deed. Accordingly, sales of real estate to them are taxable unless such sale is made by another exempt government, or by its agency or instrumentality, or by an exempt authority.

Payment of tax when property is located in more than one city or town. In case property conveyed extends from one municipality into another, the full amount of the tax should be paid to the recorder of deeds of the town in which the major part in value of the real estate being conveyed is located if the value is readily determinable, otherwise the full amount of the tax may be paid in either municipality.

Where the entire tax has been paid in one town, no tax is due when the deed (or signed copy) is recorded in another city or town. In this case the person presenting the deed for recording in the other municipality should insert in the deed (or signed copy) a statement that stamps have been affixed to the deed recorded in the first city or town (inserting the name of the city or town) in payment of the entire amount of the tax covering the realty lying in the other municipality.

In case there is a conveyance in the same deed of two separate parcels of property wherein one parcel is located entirely in one municipality and the other parcel is located entirely in another municipality, the tax should be paid in the same manner and procedure as stated above. Thus, the entire tax on both parcels being paid in one town, no tax will be due in the other town.

Where the realty sold lies both in Rhode Island and in another state, the tax should be based on that part of the total consideration paid for the property conveyed both within and without Rhode Island which is attributable to the real estate sold in Rhode Island.

Documentary stamps. The stamps must be affixed in such a manner that (1) their denomination may be clearly determined, (2) their removal will require the continued application of steam or water, (3) the person using or affixing the stamps must cancel the stamps by writing or stamping his initials and the date upon the stamps so that they may not be used again, and (4) the cancellation will not be obscured by one stamp overlapping another (44-25-3).

Stamps may only be purchased from the recorder of deeds of the particular city or town in which the deed is to be recorded. The purchase must be made at the time when the deed is presented for recording. The amount of the purchase must be limited to the stamps required for each individual transaction. The stamps must be affixed to the deed at the time of recording. The recorder must refuse to accept any deed for recording unless the stamps to be affixed to the deed have been purchased from his office.

The advance sale of stamps is prohibited with the exception of fiduciaries and officers who make judicial sales. No person other than an authorized selling agent may have or maintain an inventory of stamps in his possession. The stamps thus sold to such a fiduciary or officer may be affixed to the deed regardless of the city or town in which the deed is to be recorded. The deed for which the fiduciary or officer purchases stamps may be recorded in a city or town other than that in which he purchased the stamps.

However, when the purchaser is required to pay the tax on a deed executed by such a fiduciary or officer, the purchaser must buy the required stamps from the recorder of deeds in whose office the deed is to be recorded.

All payments for the purchase of stamps must be made to the recorder of deeds or to his employee from whom the stamps are purchased. Each recorder must make remittance of the money representing the sale of stamps in his office at such time and for such period as the tax

administrator may prescribe. When making the remittance the recorder of deeds is authorized to first deduct the amount of his commission. (See R.E.C.T. form #106.) The recorder should also use R.E.C.T. form #105 and the daily docket.

No recorder of deeds should accept any deed for recording which does not have affixed thereto Real Estate Conveyance Tax Stamps, when required. The stamps must be affixed to the original deed and only the original deed can be accepted for recording.

Hand stamps. In lieu of the placing of a documentary stamp or stamps to every original instrument, the state tax administrator may authorize and approve the use of a hand stamp to be used as a means of evidencing the payment of the tax. Where the use of a hand stamp is authorized, the recorder of deeds or clerk must affix upon the face of each original instrument, by hand stamp issued by the tax administrator, a receipt clearly showing the amount of the tax paid by the person making, executing, delivering or presenting the original instrument for recording (44-25-4.1).

Records required. Every recorder of deeds, city or town clerk or other person acting as agent of the tax administrator for the collection of the real estate conveyance tax shall keep such books, including records, receipts, and other pertinent papers, in such form as the tax administrator may require. The records shall be open at all time to the inspection of the tax administrator and his agents and upon summons issued by him, shall be produced at such time and place as he may designate for inspection by him or his agents (44-25-4.2).

Computation of the tax. There is no requirement that a deed must set forth the amount of the consideration paid for the real estate sold; nor is there any requirement that in lieu thereof an affidavit be furnished setting forth the consideration. Furthermore, no affidavit is required in support of any claimed exemption.

If the taxpayer or his representative does not know the amount of stamps he should affix to the deed, the recorder of deeds should inquire into the amount of the consideration paid, including the amount of any mortgage, lien or other encumbrance to be assumed by the purchaser as part of the sales price, so that the correct amount of stamps may be affixed to the deed.

The tax is computed at a rate of $2.00 for each $500 or fractional part thereof which is paid for the purchase of the real estate (including the value of any lien or encumbrance remaining on the property at the time of the sale). The tax is payable at the time the instrument is presented for recording (44-25-1). (2002)

The amount of $1.10 shall be retained by the city or town collecting the tax (44-25-1)(c).

MOBILE HOME CONVEYANCE TAX

Chapter 319 of the 1996 Public Laws imposed a tax on each deed, instrument or writing by which any mobile or manufactured home is granted, assigned, transferred, vested in or conveyed to another person when the consideration paid exceeds $100 (31-44-20a). (1999)

The tax is computed at a rate of $1.40 for each $500 or fractional part thereof which is paid for the purchase of the home (inclusive of the value of any lien or encumbrance remaining on the home at the time of sale). The tax is payable at the time the instrument is presented for recording (31-44-16a). In the event no consideration is actually paid for the mobile or manufactured home, the instrument of conveyance must contain a statement to the effect that the consideration is such that no documentary stamps are required (31-44-20b). (1999)

The qualified sale of a mobile or manufactured home community to a resident-owned organization is exempt from the real estate conveyance tax (31-44-3.3). (2012)

The deed, instrument or writing must be filed with the recorder of deeds of the city or town in which the mobile home or manufactured home is located within 10 days after execution of the deed, instrument or writing. The fee for filing shall be in accordance with the recording fees in 34-13-7 of the General Laws. The city or town shall assess a fine to be determined by each city or town for failure to comply with the provisions of this section (31-44-4.1).

Documentary stamps. The payment of the tax must be evidenced by affixing a documentary stamp(s) to the instrument by the person making, executing, delivering or presenting the instrument for recording. Only the original instrument shall be accepted for recording. The stamps must be affixed in the manner consistent with 44-25-4.1 authorizing the use of hand stamps (31-44-17).

The recorder of deeds or clerk must affix upon the face of each original instrument, by hand stamp issued by the tax administrator, a receipt clearly showing the amount of tax paid. Whenever a hand stamp is authorized and used, the provisions of section 44-25-4(b) and (c) shall apply to the hand stamp (31-44-21). (1999)

MICROFILMING

The city or town clerk may, with the approval of the city or town council, photograph, microphotograph and/or film all or any part of the records kept by the city or town clerk or recorder of deeds in a manner and on film or paper that complies with the minimum standards of quality approved for photographic records by the National Bureau of Standards.* Whenever the photographs, microphotographs, or films are placed in conveniently accessible files and provisions have been made for preserving, examining and using them, the original records may be put in storage anywhere in this state for safekeeping. Any photograph, microphotograph or photo copy of the original shall be admissible by any court of competent jurisdiction, the same as the original; provided, however, that the original may be ordered produced for good cause shown (45-7-9).

*The present law is mistaken. The National Bureau of Standards do not have any standards for microfilm. Standards for microfilming records have been established by the Public Records Administration as part of Administrative Code of Rhode Island (REC-1). Microfilming of public records must adhere to these regulations. The Public Records Administration operates the Central Micrographic Service, established under 38-3-5(5), provides microfilming of public records for all state and local agencies. Inquiries concerning microfilming services should be directed to the Public Records Administrator.

RECORDING FEES*

The basic schedule of town clerks' recording fees is found in 34-13-7 to 34-13-9 of the general laws. Any transfer of real estate or an interest therein to or from the Rhode Island Depositors Economic Protection Corporation is not subject to recording fees of any kind (42-116-24[c]). Section 34-13-7 provides for the fees allowed to the recording officers for recording instruments relating to real estate as follows:

Warranty deed.....	$80.00
Quitclaim deed	$80.00
Deed of executor, administrator, trustee, conservator, receiver, or commissioner	$80.00

Mortgage	$60.00
Partial release of mortgage	$45.00
Assignment of mortgage	$45.00
Foreclosure deed under power of sale with affidavit.....	$80.00
Lease	$60.00
General assignment	$45.00
Discharge of mortgage	$45.00
Discharge of attachment or execution	$45.00
Any other instrument not otherwise expressly provided for by statute	$45.00
Lien -- Federal tax	$ 7.25
Lien -- Federal tax, discharge of …….....	$ 7.25
Maps, plats, surveys, drawings (not attached to or a part of another recordable instrument).....	$45.00
Bill of sale	$45.00
Power of attorney	$45.00
Lis pendens	$80.00
Writ of attachment or execution affecting title to real estate……	**$10.00**
Writ of attachment or lien affecting title to mobile/manufactured homes…	**$ 2.00**
Notice of intention under the mechanics' lien law ……..	**$ 8.00**
Account under mechanics' lien law ……..	**$10.00**

(2012)

The recording officers shall be allowed to charge a rate of $1.00 for each additional page or fraction over.

Ten percent (10%) of the recording fees shall be utilized for the purposes of document preservation and technological upgrades.

The recording fee for lis pendens **and/or bail property liens** recorded by bailbondsmen, and the recording fee to discharge lis pendens **and/or bail property liens** recorded by bailsbondsmen shall be ten dollars ($10.00). **(2010)**

{ Section 34-13-8 provides for the fees allowed to recording officers for receiving and filing the following described instruments:

Writ of attachment or execution affecting title to real estate.....	***$10.00***
Account under mechanics' lien law …….....	***$10.00***
Writ of attachments or lien affecting title to mobile and manufactured homes.....	***$ 2.00 Repealed }***

(2012)

Recording officers shall charge $1.50 per page and $3.00 for certifying of the record of any instrument above described (34-13-9).

<u>Returning of recorded documents</u>. If the original of any instrument presented for recording in the records of land evidence is intended to be returned to the person recording or to a previously indicated address, it must be forwarded within 180 days of the date the instrument was actually recorded (34-13-10).

*See also on page 2.7 of this <u>Handbook</u> the additional assessments imposed under 42-8.1-20 of the Historical Records Trust Act.

CHAPTER 3

RECORDS OF LAND EVIDENCE

ABANDONED PROPERTY

Under the Abandoned Property Act, a certified copy of the court order that approved the expenses involved in abating a public nuisance, the interest, and the terms of payment of the lien, and a description of the property in question, must be filed for record, within 30 days of the date of issuance of the court order, in the office of the recorder of deeds in the city or town in which the property is located (34-44-4).

ACQUISITION, MANAGEMENT AND DISPOSAL OF LAND BY THE STATE

Examination of title by Attorney General. (37-6-12) This language repealed. (2002)

Filing condemnation papers. When land is taken by condemnation, the acquiring authority must file in the office of the recorder of deeds or town clerk in the city or town where the land or other real property to be acquired is situated, a description of such land or other real property and also a plat thereof and a statement that such land or other real property is taken for authorized purposes, and the nature of the title to be acquired. The description, plat and statement must be signed by the head of the acquiring authority (37-6-14).

Sale or lease. When the state reconveys, leases or sells any land acquired by condemnation, the acquiring authority must execute and record a deed thereof on behalf of the state. A second right to purchase or lease the land or property by the city or town in which the land is situated shall be conclusively presumed to have been waived in the event a written offer to sell or lease the land or property containing the terms of such offer, shall have been sent by registered or certified mail to the city or town clerk wherein the land and property are situated and the offer has not been accepted within thirty (30) days from the date of the mailing (37-7-3).

When the state takes more land than is actually needed for improvements adjacent to roads, a second right to purchase or lease the remaining property or land by the city or town in which the land is situated shall be conclusively presumed to have been waived in the event a written offer to sell or lease the land or property containing the terms of such offer, shall have been sent by registered or certified mail to the city or town clerk wherein the land and property are situated and the offer has not been accepted within thirty (30) days from the date of the mailing (37-7-4).

When the state disposes of any land acquired by purchase, devise or gift, the first right to purchase the land or property by the city or town in which the land is situated shall be conclusively presumed to have been waived in the event a written offer to sell the land, containing the terms of such offer, shall have been sent by registered or certified mail to the city or town clerk wherein the land and property are situated and the offer has not been accepted within thirty (30) days from the of the mailing (37-7-5).

Transfer. The secretary of state shall file a certifiedy of a certificate which transfers custody, supervision and control over state property for record in the office of the recorder of deeds or town clerk in the city or town where such property is situated. The date and hour of the filing of the certified copy shall be noted thereon. No fee shall be charged or collected for the filing or recording (37-7-7).

ADVERSE POSSESSION

The notice of intent to dispute interrupting adverse possession and the return of service of the notice must be recorded within three (3) months thereafter in the records of land evidence in the town in which the land is situated (34-7-6).

AIRPORT EXPANSION

The assistant director for airports must file in the office of the city or town clerk of the city or town in which any expansion is planned, a plan drawn to scale showing the existing airport and runways, the planned extensions or lengthening of existing runways, any and all public highways that shall be crossed by the extensions, and lots and parcels of land within one (1) mile distance of any proposed extensions, together with a delineation of any approach zone that will be required by the extension and an identification of every parcel of land that shall require a taking to accomplish the extension together with a brief statement describing the work to be undertaken in extending the runway (1-2-3).

ASBESTOS ABATEMENT

The state director of health must file a notice of violation of any structure that is not in compliance with a health department order regarding asbestos abatement. The notice must be filed in the land evidence records of the city or town in which the nonconforming building is located (23-24.5-8).

ATTACHMENTS

Real estate. Real estate is attached by the officer serving the process leaving in the office of the town clerk in which the real estate is located an attested copy of the writ of attachment with a copy of his doings thereon. The town clerk must note upon the copy the time of its reception and must enter in a book, to be kept by him for that purpose, (1) the names of the parties in the writ, including the name of any partnership set forth in the writ where any real property of a defendant being attached is held in a partnership name, (2) the amount of the damages claimed, (3) the time when the copy was received by him, and (4) the court to which the writ is returnable. The town clerk is entitled to receive from the officer a fee of 25 cents in each case (10-5-9).

Chattels and goods. When the bond taken for the release of attached goods and chattels is the real estate of the surety, the goods and chattels are not released until an attested copy of the bond is filed with the city or town clerk of the city or town in which the real estate is situated. The copy of the bond must be recorded in the same manner as copies of writs of attachment are recorded (10-5-32).

Lis pendens. No proceeding in court concerning the title to any real estate in the state shall affect the title until the notice of the filing of the action is recorded in the records of land evidence in the city or town where the real estate is situated. The notice must be copied in a book duly indexed and kept for that purpose (9-4-9).

Dissolution of an attachment. The lien of any attachment of real property filed on or before May 5, 1955, wherein a decision has not been entered, is dissolved whenever the cause remains without action for six (6) years, as shown by the court docket. The lien of any attachment of real property filed after May 5, 1955, wherein a decision has not been entered, is dissolved whenever the cause remains without action for six (6) years, as shown by the court docket. A certificate of the clerk of the court, in which the cause is pending, to the effect that the cause has remained without action for six (6) years is entitled to be recorded, upon payment of the fee for recording, in the records of land evidence where the attachment is filed (10-5-44). Any attachment levied against real estate shall be dissolved, and no longer be a lien upon the real estate after 20 years from the date of the recording of the attachment (10-5-46).

Sheriff's bond. Any prejudgment lien against real estate described in a sheriff's bond, created by recording the bond in the land evidence records of the city or town where the real estate is located, shall be discharged and dissolved if no action has been taken to enforce the bond for a period of 10 years from the date of the recording (10-5-17.1).

BOND FOR MOTOR VEHICLE OPERATOR

When the bond of an individual owning real estate is offered as proof of financial responsibility for a motor vehicle operator, a notice of lien may be filed by the registry of motor vehicles in the office of the town clerk in the town or city where the real estate is located (31-32-28).

BOUNDARY LINE DETERMINATION

When the Supreme Court appoints commissioners to make a survey of land bordering on public tidewater, the commissioners must report to the court the boundaries so established, with a plat of the land. The plat, after its approval by the court, must by order of the court be recorded in the records of land evidence where the land lies (34-9-2).

CATEGORY ONE MEMORIAL ITEMS

The Category One Memorial Designation Commission hears and makes determinations on requests by general public to designate item as category one memorial item (see 42-4.2-1 for definition). The clerk of the city/town wherein the item is located records the item in the land evidence records (42-4.2-2). (2012)

CEMETERY, VAULT, CRYPT, COLUMBARIUM OR MAUSOLEUM PLANS

Before commencing the building, construction or erection of a cemetery vault, crypt, columbarium or mausoleum, the plans and specifications of the structure must be filed with the town or city clerk of the town or city where the structure is to be erected (23-18-3).

COASTAL RESOURCES

Any order or notice regarding a violation of the coastal resources management program must be recorded in the land evidence records of the city or town where the property subject to the order is located (46-23-7). A notice of a permit issued by the Coastal Resources Management Council must be recorded at the expense of the applicant in the land evidence records of the city or town where the property subject to the permit is located. The town or city clerk must record any orders, findings, or decisions of the coastal resources management council at no expense to the Council (46-23-21). The executive director of the Council may record the notice of fee or final order of fine as a lien on the subject property in the land evidence records of the city or town in which the property is located (46-23-32).

COASTAL WETLANDS

Before any land can be designated as coastal wetlands, a written order, signed by the director of the department of environmental management, must be recorded in the registry of deeds in each city and town where the land is situated (2-1-15).

CONDOMINIUMS

The Condominium Ownership Act (Title 34, Chapter 36) does not apply to either new declarations of condominiums filed after July 1, 1982 or to condominiums declared before July 1, 1982. Under this act, each unit constitutes real property and each shall have the same incidents as real property, and the corresponding individual titles and interests shall be recordable. The declaration and any amendments, the bylaws and any amendments, and any instrument by which the provisions of Chapter 36 of Title 34 may be waived, and every instrument affecting the property or any unit shall be entitled to be recorded. Neither the declaration nor any amendment shall be valid unless recorded (34-36-12).

The recorder may maintain an index whereby the record of each condominium project contains a reference to the declaration, each conveyance of, lien against, and all other instruments referring to a unit affected by the declaration. The record of each conveyance of, lien against, and all other instruments referring to a unit shall contain a reference to the declaration of the property of which the unit is a part. With the recording of the declaration, a survey map (original linen/mylar) of the land upon which the buildings and improvements are located shall be recorded (34-36-13).

The deeds of unit shall contain a description of the land including the book and page or entry number and date of recording of the declaration, the unit number of the unit, the percentage of undivided interest appertaining to the unit, and further particulars deemed desirable by the grantor and grantee (34-36-11).

The Rhode Island Condominium Act (Title 34, Chapter 36.1) applies to all condominiums created within this state after July 1, 1982, except that any condominium created prior to July 1, 1982 may voluntarily accept the provisions of Chapter 36.1 by an agreement in writing executed by the condominium association. The agreement must be recorded in the land evidence records of each city or town where all or any part of the land in the condominium is located (34-36.1-1.02). (1994)

Under this act, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate (34-36.1-1.05).

Eminent domain. If a unit is acquired by eminent domain, the court decree must be recorded in every city or town in which any portion of the condominium is located (34-36.1-1.07).

Declaration. A condominium may be created pursuant to this act only by recording a declaration in the land evidence records in every city or town in which any portion of the condominium is located. The declaration must be indexed in the grantee's index in the name of the condominium and the association and in the grantor's index in the name of each person executing the declaration (34-36.1-2.01).

Certificate of completion. A certificate of completion executed by an independent registered engineer or architect must also be recorded in the land evidence records (34-36.1-2.01).

Leasehold condominiums. Any lease the expiration or termination of which may terminate the condominium or reduce its size, or a memorandum thereof, must be recorded (34-36.1-2.06).

Limited common elements. Whenever limited common elements are reallocated by an amendment to the declaration, the condominium association must record the amendment. The amendment must be recorded in the names of the parties and the condominium (34-36.1-2.08).

Plats and plans. Upon exercising any development right, the declare must record either new plats and plans or new certifications of plats and plans previously recorded (34-36.1-2.09).

Development rights. To exercise any development right, the declarant must prepare, execute and record an amendment to the declaration (34-36.1-2.10).

Relocation of boundaries. Whenever the boundaries between adjoining units are relocated by an amendment to the declaration, the association must prepare and record plats or plans necessary to show the altered boundaries (34-36.1-2.12).

Subdivision of units. Whenever a unit is subdivided into 2 or more units, the association must prepare, execute, and record an amendment to the declaration including the plats and plans, subdividing the unit (34-36.1-2.13).

Amendments. Every amendment to a declaration must be recorded in every city or town in which any portion of the condominium is located. An amendment must be indexed in the grantee's index in the name of the condominium and the association and in the grantor's index in the name of the parties executing the amendment (34-36.1-2.17).

Termination agreement. A termination agreement and all ratifications thereof must be recorded in every city or town in which a portion of the condominium is situated (34-36.1-2.18).

Merger or consolidation. An agreement of 2 or more condominiums to merge or consolidate must be recorded in every city or town in which a portion of the condominium is located (34-36.1-2.21).

Organization of unit owners' association. For an unincorporated association a certificate evidencing the names of the executive board members and mailing address of the association must be recorded in the land evidence records of the city/town in which the condominium is located (34-36.1-3.01). (2009)

Transfer of special declarant rights. An instrument evidencing the transfer of any special declarant rights must be recorded in every city or town in which any portion of the condominium is located (34-36.1-3.04).

Conveyance of common elements. Any agreement to convey common elements or subject them to a security interest must be recorded in every city or town in which a portion of the condominium is located (34-36.1-3.12).

Liens for assessments. A condominium association's lien may be foreclosed in the same manner as a mortgage on real estate (34-36.1-3.16). **(See also 34-36.1-3.21 - Foreclosure of condominium lien) (2008)**

Other liens affecting the condominium. A judgment for money against a condominium association must be indexed in the name of the condominium and the association and, when so indexed, is notice of the lien against the units (34-36.1-3.17).

CONSERVATION AND PRESERVATION RESTRICTIONS

Conservation and preservation restrictions are interests in real estate. A document creating such a restriction is a conveyance of real estate for purposes of execution and recording in the land evidence records (34-39-4).

The Attorney General may bring an action in the Superior Court to enforce the public interest in conservation and preservation restrictions held by any governmental body or by a charitable corporation, association, trust or other entity whose purpose includes the conservation of land or water areas or the preservation of structures of historical significance (34-39-3**).** **(2011)**

A court action affecting a conservation restriction held by a private land trust may only be brought or intervened in by:

(1) An owner of property interest in the real property burdened by the conservation restriction.

(2) A holder of the conservation restriction.

(3) A person having a third-party right of enforcement stated in the recorded conservation restriction.

(4) The Attorney General. (34-39-3) **(2012)**

An executor or administrator of a decedent's estate may donate a conservation easement on any real property in order to obtain the benefit of the estate tax exclusion allowed under sections 170 and 2031(c) of the Internal Revenue Code (33-9-30). (2009)

CONVEYANCE OF LAND

No conveyance of lands, tenements or hereditament is valid, except between the parties and their heirs, unless it is made in writing duly signed, acknowledged, delivered and recorded in the records of land evidence in the city or town where the lands, tenements or hereditaments are situated. Leases for terms of more than one year may be recorded with a memorandum of lease in writing rather than the original lease provided, however, that the memorandum shall contain the names of the parties to be charged, a description of the real estate, the duration of the lease, including renewal options and purchase options (34-11-1).

Signing and printing names. The signatories and notaries public to all deeds, mortgages, transfers, assignments, and discharges of mortgages, leases, rental agreements, rescissions or assignments thereof, and contracts for the sale of land shall have their names typed or printed immediately beneath or adjacent to their signatures. The recording fee for the instrument shall be increased by $2.00 if the instrument does not contain the typed or printed names (34-11-1.1).

Name and address of grantee. Every deed presented for record must contain or have endorsed upon it the name, residence, and/or post office address of the grantee and the address must be recorded as part of the deed. Failure to comply with this section shall affect the validity of the deed. A city or town clerk may decline to accept a deed for recording which is not in compliance with the requirements of this section (34-11-1.2).

Name and address of mortgagee. Every mortgage deed presented for record shall contain or have endorsed upon it the name and address of the mortgagor and mortgagee and such address shall be recorded as part of the mortgage deed. Failure to comply with this section shall not affect the validity of any mortgage deed, but the city or town clerk may charge an additional $2.00 for a recording fee if the name and address does not appear on the instrument (34-11-1.3).

Sale price recording. Every deed presented for recording due to the sale of property, which results in the transfer in ownership of the property, shall contain or have endorsed upon it the total dollar amount of the actual sale, which shall be recorded as part of the deed. A city or town clerk may decline to accept a deed for recording if the deed is not in compliance with this section. Failure to comply with this section shall not affect the validity of any deed (34-11-1.4). (2006)

Conveyance executed by attorney. A conveyance executed by an attorney is valid provided the power of attorney and the deed executed by the attorney are signed, acknowledged, delivered and recorded in the same manner as deeds from grantors in person (34-11-34).

Family court decree. A certified copy of a decree of the Family Court in a divorce proceeding permitting one of the parties to sell, mortgage or dispose of real estate free of the rights of life estates of the other party must be recorded in the records of land evidence of the city or town in which the real estate is located (15-5-10).

Federal government. All deeds, conveyances or title papers involving the government of the United States must be recorded in the land records of the town in which the land conveyed is situated (42-2-1).

DAMS

When a civil action is commenced in Superior Court involving damages from a dam, the officer serving the process must leave a copy of the complaint in the office of the town clerk of the town in which the dam is located (46-18-2).

Any order or notice as to unsafe dams and reservoirs issued by the Director of the Department of Environmental Management is eligible for recordation. The Director forwards the order or notice to the city/town wherein the subject property is located which is to be recorded in the land evidence records. The Director also forwards the written notice of satisfactory completion of the requirements of the order or notice to the city/town which is to be recorded in the land evidence records (46-19-4). (2012)

DEED OF ASSIGNMENT FOR BENEFIT OF CREDITORS

A deed of assignment for the benefit of creditors must bear the certificate of the clerk of the Superior Court to the effect that the assignee has complied with the proper legal requirements before it can be accepted for recording by a city or town clerk. A deed of assignment is null and void if it does not bear the certificate (10-4-2). The assignee must have the deed of assignment recorded in the registry of deeds in each city or town in which there may be real estate of the assignor on which it may operate and in the registry of deeds of the town or city where the assignor resides (10-4-4).

DEEDS (SEE CONVEYANCES OF LAND)

DEFECTIVE ACKNOWLEDGMENTS

Any acknowledgment of an instrument used in conveying any interest in real estate, where the instrument has been on record for a period of 10 years, shall be construed to be a valid acknowledgment (34-11-36).

ENVIRONMENTAL PERMITS

When the notice of a permit or license issued by the Department of the Environment is eligible for recording, the notice must be recorded in the land evidence records of the city or town where the property subject to the permit or license is located (42-17.1-43).

EXECUTION ON REAL ESTATE

When execution is to be levied upon real estate, the officer charged with the service of the execution must file with the town or city clerk of the town or city where the real estate is situated, a copy of the execution, with his doings thereon, together with a description of the real estate. The town or city clerk must note upon the copy of the execution the exact time when it was filed in his office and must also enter in a book, to be kept by him for that purpose (1) the names of all the parties in the execution, including the name of any partnership set forth in the writ where any real property of a defendant whose property is being levied upon is held in a partnership name, (2) the amount of the judgment, (3) the time when the copy was filed in his office, and (4) the name of the court to which and the time when the execution is returnable. The town or city clerk is entitled to receive from the officer a fee of 50 cents in each case (9-26-14).

A written notice of commencement of foreclosure proceedings of a mortgage or a written notice of intent to enforce an attachment, lien or other encumbrance may be recorded in the land evidence records in the city or town where the mortgaged or levied premises are located (9-26-16), (34-11-22).

FARM, FOREST AND OPEN SPACE

A notice of the classification of real estate as farm, forest or open space must be filed by the tax assessor with the recorder of deeds of the city or town where the real estate is located. No recording fee shall be collected for recording the notice (44-5-39.1).

When a change in the use of land classified as farm, forest or open space occurs, the assessor must record the land evidence records a notice of the change in use (44-5-40).

FENCE DIVISIONS

The fence viewer must make a report of his assessments into the office of the town clerk (34-10-13). All agreements between proprietors or possessors relating to partition fences must be registered in the office of the town clerk in the town where the land is situated (34-10-14).

A copy of an order of a fence viewer to a delinquent party to repair, build or rebuild a partition fence must be lodged in the office of the town clerk (34-10-15).

If the order of the fence viewer is not complied with, the complainant may build, repair or rebuild the fence and the fence viewer must issue him a certificate entitling him to recover from the delinquent party. The fence viewer must lodge a copy of the certificate, signed by him, in the town clerk's office. An attested copy of a writ of attachment must be left in the town clerk's office if the delinquent party cannot be found in the state (34-10-16).

Whenever any controversy or dispute arises about the rights of the respective occupants or owners in division lines of partition fences, the resulting line and assignment, as determined by the fence viewer, must be recorded in the office of the town clerk (34-10-17).

FIDUCIARIES

When real estate constitutes any portion of trust property, a certified copy of the order or decree of the court appointing the trustees, under the seal of the court, must be recorded in the records of land evidence where the real estate is situated. When personal estate constitutes the trust property, the order or decree must be recorded in the city or town where the trustees reside (18-2-9).

Under the "fiduciaries emergency act," a power of attorney may be acknowledged and recorded where the instrument or order under which the fiduciary was appointed is recorded, or (if the instrument or order has not been recorded in any city or town in the state) in the office of the recorder of deeds of the town or city in which any property included in the assets of the estate is situated (18-3-5).

HAZARDOUS WASTE DISPOSAL

Whenever the state director of environmental management issues a notice of a violation or an order regarding the disposal of hazardous waste, the director must file the notice or a summary of the substance of the notice in the land evidence records where the real property or landfill is located (23-19.1-33).

HIGHWAYS

When a city or town council acquires land by eminent domain for public highway purposes, they must file in the land evidence records a copy of a resolution declaring that the public interest makes the acquisition necessary. A description and plat of the land must also be filed. The resolution, description and plat must be certified by the city or town clerk (24-1-2). For the purpose of serving notice of the condemnation, copies of the resolution, description and plat must be attested by the city or town clerk (24-1-5). When a petition is filed in the Superior Court praying for an assessment of damages, the court must cause notice to be given to the town or city by serving the town or city clerk with a certified copy of the petition (24-1-8).

When land, which has been used and considered to be a public highway for a period of twenty (20) years, is declared to be a public highway, plats of the land must be recorded (24-2-4). In the improvement and grading of public highways, the report of the commissioners of estimate and assessment must be filed in the office of the town clerk (24-3-6). A property owner in any town, owning land abutting on a platted street which is not a public highway, may petition the town council to define the grade of the street. The council then must appoint three (3) commissioners to define the grade (24-3-18). If confirmed, the report of the commissioners, together with the profile plat, must be recorded in the office of the town clerk (24-3-20). An abutting owner who considers he has been injured by a change in grade, may file a claim for compensation with the council within forty (40) days (24-3-27).

HISTORICAL CEMETERIES

The recorder of deeds in every city and town must **maintain a register of** all historical cemeteries located within the city or town. ~~The recorder of deeds must register these historical cemeteries on an official tax plat or similar instrument used by that city or town to record all plats or parcels of land~~. **The tax assessor of each city or town must note the location of each historical cemetery on the tax assessor's map with a symbol consisting of the letters "CEM" inside a rectangle** (23-18-10.1). **(2011)**

Every deed presented for recording a transfer of property located on a historical cemetery registered pursuant to section 23-18-10.1 must have endorsed upon the deed, in capital letters, a notation that a historical cemetery is located on the property (34-11-1.5). (2011)

In the event that a previously unmarked cemetery meets the criteria for an historic cemetery, the building official must so advise the recorder of deeds of the city or town who must record and register the cemetery as an historic cemetery (23-18-11).

A report of any grave removal or relocation from one cemetery or burial ground to another must be filed in the city or town clerk's office for each municipality and shall, to the extent permitted by law, be available for public inspection (23-18-11.2) **(2011)**

HOUSING AUTHORITIES

When a housing authority takes land by eminent domain, a copy of a resolution by the authority that the acquisition of the land is in the public interest and necessary for the public use must be filed in the land evidence records. Each resolution so filed must be accompanied by a plat of the land and a statement, signed by the chairman of the authority, that the land is taken pursuant to the provisions of law (45-29-3).

When a city takes land by eminent domain for the housing authority, the authority must file in the land evidence records a survey or map of the property (45-29-16). The city must file in the records of land evidence a description and plat of the property to be taken and a statement that the property is desired to be taken by condemnation pursuant to the provisions of law. Upon the filing of the description, plat and statement, the city clerk must have them published in a newspaper published in the city, or if none, then in some newspaper published in the county in which the land is located, at least twice a week for three (3) successive weeks (45-29-19).

LAND SURVEYORS

It shall be unlawful for the recorder of deeds or the registrar of titles or any city or town clerk or employee thereof to accept, file or record any map, plat, replat, survey or other documents within the definition of land surveying which do not have impressed thereof and affixed thereto the personal signature, date and seal of a professional land surveyor registered under Chapter 8.1 of Title 5 of the General Laws (5-8.1-19)

LAND TRUSTS

All land trusts, public and private, must record in the public records of the appropriate city or town all deeds, conservation easements or restrictions or other interests and rights acquired in the land (42-17.1-20).

LANDLORDS

All nonresident landlords must designate an agent for service of process upon whom service may be made of any process, notice or demand required or permitted by law to be served, including but not limited to notices of minimum housing code violations. The landlord's designation must be in writing, must include the name and address of the agent, shall include the street address of each property designated to the agent, and must be filed with the secretary of state and with the clerk of the city or town where the dwelling unit is located (34-18-22.3).

(1998)

LEAD POISONING

If any person liable to pay any civil fine under the "Lead Poisoning Prevention Act" neglects or refuses to pay the fine after demand, the amount of the fine, together with interest and any other costs that may accrue, shall be a lien in favor of the state after the lien has been entered and recorded in the city or town in which the property is located (23-24.6-27).

LEASED LAND

When owners of residential structures situated on leased land form a home owners' association, the association must record in the land evidence records of the city or town where the leased land is located, a copy of its articles of incorporation together with a statement setting forth its statutory right of first refusal to purchase or lease the land (34-18.2-3).

In any instance in which the incorporated homeowners' association of leased land is not the successful purchaser or lessee of the land, the seller or lessor of the land must prove compliance with section 34-18.2-3 of the General Laws by filing an affidavit of compliance in the official land evidence records of the city or town where the property is located within 7 days of the sale or lease of the land (34-18.2-3).

LIENS

Child support lien. The Department of Administration may record a copy of a notice of intent to lien in the office of the recorder of deeds where the title to the property is recorded (15-21-3). (2001)

To perfect the lien with respect to real property, the department must file a notice of lien with the recorder of deeds for the city or town in which the property is located. The recorder of deeds must index the notice of intent under the name of the obligor in the grantor index. The notice of lien shall specify the property to be attached and the amount of the arrearage due and must be filed in the office where the notice of intent was originally filed (15-21-4). The division of taxation, child support enforcement shall not be required to pay a recording fee (15-5-28). (2001)

Mechanic's lien. A mechanic's lien is a claim for materials furnished or services rendered in the construction, erection, alteration or reparation of a building, canal, turnpike, railroad or other improvement. The town clerk must record a copy of the notice of intention to claim a lien which may be filed from year to year, in a book to be kept for that purpose, with the time and date when they were received and recorded. The copy of the notice must be filed within 200 days of the mailing of the original to the person against whose property the lien is claimed. The town clerk must also maintain an alphabetical index of the owners and lessees or tenants mentioned in all notices of intention recorded; provided, however, that the town clerk may refuse for recording any notice of intention which fails to reference the name and address of the owner of record, or lessee at the upper left hand corner of the notice. The recording fee for each notice of intention is $8.00. **A notice of lien shall be effective as to any retainage earned but not paid, for work furnished pursuant to 34-28-1, and the notice of lien shall be effective from commencement of the work** (34-28-4, 34-28-5, **34-28-9**). **(2008)**

The town clerk must record the notices of lis pendens (pendency of an action) in the book provided for in 9-4-9 and must maintain as part of the index of the book an alphabetical index of the owners or lessees or tenants mentioned in all notices of lis pendens recorded. The recording fee for each notice of lis pendens is provided for in 34-13-7 of the general laws (34-28-12). See 34-28-7 for liens of any architect or engineer.

Temporary disability insurance contributions – Lien on real estate. The property of employers who fail to make adequate contributions under the Rhode Island “temporary disability insurance act" and the "employment security act" may be liened by the state director of employment security. The director may file a notice of the tax lien with the records of land evidence of the city or town where the property is located. The recorder of deeds must receive, file and index the notice under the name of the lienee. For filing the notice of the lien or a discharge thereof, the recorder of deeds shall be paid a fee of $4.00 for a completed entry (28-40-14, 28-43-20).

Lien on deceased recipient’s estate for assistance. Upon the death of a recipient of medical assistance under Title XIX of the federal Social Security Act, the total sum of medical assistance paid on behalf of a recipient who was fifty-five (55) years of age or older constitutes a lien upon the estate in favor of the Executive Office of Health and Human Services. **This lien attaches and is only effective against the recipient’s real property included in the recipient’s probate estate if the lien is recorded in the land evidence records (40-8-15). (2012)**

Provided that this lien will not attach nor become effective upon any real property until a statement of claim naming the owner of record and describing the property is recorded in the land evidence records in the city/town in which the real property is situated. Notice of the lien must be sent to the duly appointed executor or administrator, the decedent's legal representative, or to the decedent's next of kin or heirs at law as stated in the decedent's last application for medical assistance (40-8-15). (2012)

MARKETABLE RECORD TITLE

Any person claiming an interest of any kind in land may preserve and keep effective that interest by recording a notice in writing, duly verified by oath, setting forth the nature of the claim. The notice must be recorded during the 40 year period immediately following the effective date of the root title of the person whose record title would otherwise be marketable (34-13.1-5).

MINIMUM HOUSING CODE

Under the state minimum housing code, the enforcing officer is required to file any second notice of a violation for recording in the land registry of the city or town in which the dwelling, structure or premises are located (45-24.3-17).

The owner of any dwelling unit, who is a nonresident of the state of Rhode Island shall continuously maintain with the city or town clerk where said property is located a registered agent, which agency may be either an individual who resides in this state or corporation authorized to do business in this state. The landlord's designation shall be in writing, shall include the name and address of the agent and shall include the street address of each property designated to said agent (45-24.3-17). (2000)

MOBILE HOMES

Every deed, instrument, or writing by which an interest in any mobile or manufactured home is granted, assigned, transferred, or otherwise conveyed to, or vested in, a purchaser or purchasers, or any other person or persons, shall be filed with the recorder of deeds of the city or town in which the mobile home or manufactured home is located, within 10 days after execution of the deed instrument, or writing. The fee for the filing shall be in accordance with section 34-13-7. The city or town shall assess a fine to be determined by each city or town for failure to comply with the provisions of this section (31-44-4.1). (1998)

Notice of a lien on a mobile or manufactured home which will be located in a mobile or manufactured home park must be filed with the recorder of deeds in the city or town where the park is located. The notice must be filed by the person who sells the mobile home in this state and retains a secured interest in the home (31-44-4).

Whenever an incorporated home owners' association of a mobile home park is not the successful purchaser or lessee of the park, the seller or lessor of the park must prove compliance with the provisions of 31-44-3.1 of the General Laws by filing an affidavit of compliance in the land evidence records of the city or town where the property is located within 7 days of the sale or lease of the park (31-44-3.1).

Sale price recording. Every deed presented for recording due to the sale of property, which results in the transfer in ownership of the property, shall contain or have endorsed upon it the total dollar amount of the actual sale, which shall be recorded as part of the deed. A city or town clerk may decline to accept a deed for recording if the deed is not in compliance with this section. Failure to comply with this section shall not affect the validity of any deed (31-44-22). (2006)

MORTGAGES

When possession of a mortgaged estate is taken by peaceable and open entry in the presence of two (2) witnesses, the mortgagee's certificate of possession, acknowledged before a justice of the peace or notary public in the city or town where the mortgaged estate lies, must be recorded in the records of land evidence in the city or town (34-23-4).

A real estate mortgage deed to secure future loans is security from the time of its recording in the records for recording real estate mortgages in the city or town in which the real property mortgaged is located (34-25-1). When the mortgagor desires to relinquish the security of the mortgage deed as to any additional loans, the mortgagor must offer for record in the land evidence records with payment for recording, a stipulation in writing setting forth the principal amount of loans to be secured by the mortgage deed. The recorder of deeds must record the stipulation and must make reference to the stipulation on the original recording of the mortgage. The recording fee for recording the stipulation shall not exceed $4.00 (34-25-4).

Open end mortgages. An open-end mortgage deed is security from the time of its recording in the records for recording real estate mortgages in the city or town where the real property mortgaged is located (34-25-8). The original mortgage deed must be executed and recorded on or after June 1, 1983 (34-25-9).

Reverse mortgages. A reverse mortgage deed is security from the time of its recording in the records for recording real estate mortgages in the city or town where the real property is located (34-25.1-1). The original mortgage deed must be executed and recorded on or after January 1, 1985 (34-25.1-2).

If a mortgagor offers a stipulation for record, setting forth the unpaid principal amount of loans outstanding, in the land evidence records, the recorder of deeds must record the stipulation when offered and must cause a reference to be made on the original recording of the mortgage. The recording fee for recording the stipulation shall not exceed $10.00 (34-25.1-4).

Discharge of mortgage. A mortgage may be discharged in whole or in part by an entry acknowledging the satisfaction thereof or the payment thereon, made on the face or back of the mortgage, or upon the face or margin of the record of the mortgage, in the records of land evidence, and signed by the mortgagee or by his executor, administrator, successor, or if the mortgage be assigned, by the assignee or his executor or administrator. (Mortgagees of real estate are required to record discharges within 30 days after receiving final payment on the mortgage note.) The entry has the same effect as a deed of release duly acknowledged and recorded (34-26-3). The mortgage may also be discharged by separate instrument of release recorded in the proper record book with suitable references to the original record, including the mortgagor's name and address (34-26-2).

Discharge of certain ancient mortgages. On or after January 1, 1989 no power of sale in any mortgage of real estate then and thereafter of record shall be exercised and no entry shall be made nor possession taken nor proceeding begun for foreclosure of any such mortgage after the expiration of 50 years from the date of recording of the mortgage unless an extension of the mortgage, or an acknowledgment by affidavit that the mortgage is not satisfied, is recorded within the last 10 years. All extensions, agreements, affidavits and acknowledgments must be indexed in the land evidence records under the name of the present landowner (34-26-7).

An assignment of or agreement affecting any rights or interests of a landlord, or an agreement to subordinate a prior lien or encumbrance on real property may be recorded in the land records in the office of the clerk of the town in which the premises are situated. The clerk of the town must in each case enter a reference to the record of the subordination agreement on the margin of the record of the instrument affected thereby (34-24-8).

Foreclosure deed. **The foreclosure deed shall be recorded in the records of land evidence for the municipality where the real estate is located within 45 days after the date of the sale. The deed shall be captioned "foreclosure deed" and the date of the foreclosure shall be stated in the deed (34-27- 6). (2008)**

OFFICIAL MAPS

When the city or town council establishes an official map identifying and showing the location of the streets of the city or town, the city or town council must certify the fact of the establishment of the official map to the city or town recorder (45-23.1-1).

PARKS AND RECREATIONAL AREAS

When the department of environmental management acquires land by condemnation for the purpose of developing parks and recreational areas, a description, plat and statement of the land, signed by the director of the department, must be filed in the records of land evidence (32-1-4).

PARTITION

In an action for the partition of real estate, the report (with a plat of the division) of the commissioner, appointed by the Superior Court to make the partition, and the judgment of the court must be recorded in the records of land evidence in the town or towns where the real estate is situated (34-15-27).

PORT FACILITIES

When the department of environmental management acquires land by condemnation for the construction of port facilities, the department must file in the land evidence records a description and plat of the land together with a statement that the land is taken pursuant to the proper provisions of law. The description, plat and statement must be signed by the director of environmental management (46-5-2).

PROBATE MATTERS

Disclaimers and renunciations. A disclaimer or renunciation involving real estate must be acknowledged and recorded in the records of land evidence in the town or city in which the real estate, or a part thereof, is situated (34-22-2). For additional citations: see "disclaimer of certain property interests" in the probate chapter of this handbook.

Division of real estate. The report of the commissioners, if finally established, must be recorded in the records of land evidence in the several towns and cities where any of the lands lie (33-3-8).

Dower. When final judgment for dower has been rendered in favor of a plaintiff in any action of dower, the judgment of the court, confirming the report of the commissioners, must be duly recorded in the office of the town clerk of the town in which the premises lie. Before the issuance of execution, the plaintiff must produce to the court, or the clerk, if the court is adjourned, a certificate that the judgment of the court has been so recorded (33-4-13).

Guardianship. The petitioner for guardianship shall cause a copy of the petition, with the order of notice thereon, to be recorded in the records of land evidence for the city/town in which any real property of the respondent is located (33-15-13). (2001)

Legacies. Notice of a suit to recover a legacy, when the action is to impress or preserve a lien or charge upon real estate, must be filed in the land evidence records of the city or town where the real estate is situated within ten (10) days of the commencement of the suit (33-13-9).

Recording of waiver. A surviving husband or wife may, within six (6) months after the probate of the will of the deceased spouse, file in the probate court a written statement waiving and renouncing a devise and bequest and claiming his or her life estate in the real estate of the decedent. If the real estate is located in any city or town other than that in which the will of the decedent is probated, the waiver and claim must also have been filed in the records of deeds in each city and town where such real estate is located (33-25-4).

Setting off and allowance of real estate. A copy of the decree (form #63) of the Probate Court, duly certified by the probate clerk, setting off and allowing to the widow or husband in fee real estate of the intestate must be recorded in the records of land evidence in the city or town in which the land is situated (33-1-6).

Wills. Title to real estate located in any city or town other than the city or town in which the will is proved does not pass for the purpose of conveyance until, in addition to the probate, a copy of the will as proved, duly certified by the probate clerk, is recorded in the records of land evidence in the other city or town. The same procedures apply to foreign wills (33-6-31).

PUBLIC BUILDING AUTHORITIES

When a municipal public building authority takes land by eminent domain, a copy of a resolution by the authority that the acquisition of the land is necessary for the construction or the operation of a project must be filed within 6 months in the land evidence records in the city or town in which the land is located. Each resolution so filed must be accompanied by a plat of the land and a statement, signed by the chairman of the authority, that the land is taken pursuant to the provisions of law (45-50-13).

REAL ESTATE POWERS

A release of, or a contract not to exercise a power of appointment, a power of apportionment or any other power relating to real estate must be acknowledged and recorded in the records of land evidence in the city or town in which the real estate, or some part thereof, is situated (34-22-4).

REAL ESTATE RIGHTS

Any recorded contract, deed or other instrument which creates a pre-emptive right, right to repurchase or a right of first refusal to purchase real estate, **other than housing restrictions as set forth in section 34-39.1-3, and conservation restrictions and preservation restrictions as set forth in sections 34-39-3 and 34-39-4,** which by its own terms, does not contain a specific expiration date, expires 10 years after the date of execution; if no date of execution is contained in the instrument, it expires 10 years after its recording. If the rights are created under a lease, the rights expire on the termination or expiration of the lease. Any rights created prior to July 10, 1989 may be extended for 10 years by filing a Notice of Intention to extend the rights in the Land Evidence Records prior to July 1, 1991 (34-4-26). **(2006)**

RECOGNIZANCE

A notice of any recognizance with surety or sureties given in the supreme, superior, family or district court must be recorded, within 7 days of the acceptance of the recognizance by the court, in the office of land records in the city or town in which the real estate pledged as security is located (12-13-22).

The notice of recognizance must contain the defendant's name, the property owner's name, the address of the property and the assessor's plat and lot number (12-13-22).

REDEVELOPMENT PROJECTS

Each town or city redevelopment agency must file with the city or town council a detailed report of all its transactions, including a statement of all revenues and expenditures, at intervals prescribed by the city or town council (45-31-22).

When a city or town redevelopment agency acquires land by eminent domain, the agency must file in the land evidence records a copy of a resolution of the necessity of the acquisition, a plat showing the real estate taken, and a declaration, signed by the chairman or vice chairman of the agency, that the property is taken pursuant to the provisions of the "Redevelopment act of 1956" (45-32-27).

REFEREES' REPORT

When a civil action involving real estate is referred to one or more referees, notice of the contents and effect of the agreement of reference must be recorded in the land evidence records (9-15-4). If the report of the referees is received by the court, a copy of the report and a plat of the real estate involved, certified by the clerk of the court, must be recorded in the records of land evidence (9-15-8).

RIGHT OF ENTRY

A right of entry or possibility of reverter, created before May 11, 1953, may be unenforceable after December 31, 1987, if a written statement describing the land and the nature of the right is not filed in the land evidence records in the city or town where the land is situated (34-4-24).

The statement, which must be duly sworn to and filed by December 31, 1987, must be received and recorded upon payment of the fee required by law and must be indexed in the grantor index under the person or persons named in the statement appearing of record to own the fee subject to the right of entry or possibility of reverter (34-4-24).

SCHOOL CONSTRUCTION

When a town school district acquires land by condemnation for school purposes, the school committee must file in the records of land evidence a description and plat of the land and a statement that the land is taken pursuant to the proper provisions of law. The description and statement must be signed by the chairman or president of the school committee. After the filing of the description and statement, the town clerk must cause a copy of the description and statement to be published in some newspaper published in the county in which the town is located at least twice a week for three (3) successive weeks (16-9-6). A description, plat and statement must also be filed by any regional school district (16-3-11).

SECURED TRANSACTIONS

Chapters 182 and 420 of the Public Laws of 2000 repeal several sections of the Uniform Commercial Code, including GL 6A-9-401entitled "Filing" which has been previously summarized in the "Secured Transaction" portion of this handbook.

Of particular interest to city and town clerks in this new law is part 5, subpart 2 entitled "Duties and Operation of Filing Office", which begins on page 193 of the enacted legislation. It covers some of the same territory previously covered by this handbook including financing statements, termination statements, statements of release, etc.

Due to the complexity of this new legislation, an attempt at summarization will be delayed until the issuance of a future supplement to this handbook.

(2000)

SEWAGE DISPOSAL

Any order or notice issued by the director of the department of environmental management relating to the location, design, construction or maintenance of a sewage disposal system must be sent by the director to the city or town where the property is located. The order or notice must be recorded in the general index in the land evidence records. When the requirements of the order or notice have been satisfactorily completed, the notice of satisfactory completion must be recorded in the same manner (42-17.1-2)(13).

SOIL EROSION

Liens asserted under the Soil Erosion and Sediment Control Act must be recorded with the records of land evidence of the municipality (45-46-5).

SOLAR EASEMENTS

A solar easement, which is defined as a right of any owner of land or solar skyspace to ensure adequate exposure of a solar energy system, must be in writing. The easement is subject to the same conveyancing and instrument recording requirements as any other instrument affecting the title of real estate (34-40-2).

SOLID WASTE

Whenever the state director of environmental management issues a notice of a violation or an order regarding the disposal of solid waste into real property or any landfill, the director must file the notice or a summary of the substance of the notice in the land evidence records of the city or town where the real property or landfill is located. When the notice of violation or order has been complied with or vacated, the director, within 20 days, must file a notice rescinding the order or notice of violation in the land evidence records (23-18.9-13).

Whenever the Solid Waste Management Corporation adopts a resolution that the acquisition of land by eminent domain is necessary for the construction or the operation of a solid waste management facility, a copy of the resolution must be filed within 6 months by the corporation in the land evidence records of the city or town where the land is located. Each resolution so filed must be accompanied by a plat of the land and a statement, signed by the chairman of the corporation, that the land is taken pursuant to the provisions of law (23-19-10.2).

SUBDIVISION OF LAND

The rules and regulations adopted by a local plan commission must be filed with the city or town clerk (45-23-4). No plat of a subdivision of land may be filed or recorded by the city or town clerk until the commission's approval is endorsed on it
(45-23-7).

According to the Rhode Island Land Development and Subdivision Review Enabling Act of 1992, all proposed land developments and subdivisions must be reviewed by local officials, following a standard process, prior to recording in the local land evidence records (45-23-29). Other provisions of this Act concerning town and city clerks include:

- All written decisions of the planning board shall be recorded in the land evidence records within 35 days after the planning board vote. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the administrative officer (45-23-63). (2008)

- Decisions of the planning board must be filed and posted in the office of the city or town clerk. The city or town clerk must accept delivery of an appeal on behalf of the board of appeal, if the local regulations governing land development and subdivision review so provide (45-23-67).

- Decisions of the board of appeals must be recorded in the land evidence records and posted in the office of the city or town clerk (45-23-71).

Tolling of expiration periods. Approvals issued pursuant to local regulations are tolled until June 30~~, 2011~~ **2013.** Although the tolling need not be recorded to be valid a notice must be posted in the municipal planning department and near the land evidence records.

The tolling shall apply only to approvals or permits in effect on November 9, 2009, and those issued between November 9, 2009 and June 30~~, 2011~~ **2013** (45-23-63.1). **(2011)**

SURVEY PLANS (SEE RECORDING OF INSTRUMENTS - CHAPTER 2)

TAX LIENS

Federal taxes. The recorder of deeds or the city or town clerk must receive, file and index all notices of liens in favor of the United States for taxes due the United States, or any copies of notices, duly certified by the director of internal revenue in the same manner as is required by law for receiving and recording liens, deeds and conveyances (34-34-1).

State taxes. Unpaid amounts of the business corporation tax (44-11-8), the franchise tax (44-12-7), the public service corporation tax (44-13-18), taxes on banks (44-14-21), and the admissions tax on racing events (44-29-8) constitute a lien on the real estate of the delinquent taxpayer. The transfer tax, which constitutes a lien on the property, expires after ten (10) years (44-23-38). (2001)

The taxes imposed under the "sales and use tax act" and the "Rhode Island personal income tax act" constitute a lien on the property. The state tax administrator may file a notice of the tax lien with the records of land evidence where the property is located. The city or town clerk must receive, file and index the notice under the name of the taxpayer. The notice, which expires six (6) years from the date of filing unless renewed, must be in writing and must contain the name and last known address of the taxpayer. The notice of lien may be discharged by the state tax administrator. For filing a notice of lien or discharge, the city or town clerk receives a fee of $1.50 for a completed entry (44-19-21).

The estate tax constitutes a lien upon the estate (44-23-9). The state tax administrator must notify the town clerk of the city or town when a statement is filed; and the town clerk must record the lien by noting in the land records the decedent's name and the existence of the lien on the decedent's real property. The tax administrator must send a notice of the discharge of the lien to the town clerk, who receives a fee of $1.50 for a completed entry (44-23-12). The lien created by an estate tax expires after a period of ten (10) years (44-23-38). (2001)

Local property taxes. Levy of a legally assessed property tax constitutes a lien on the real estate. The lien arises and attaches as of the date of assessment and shall continue until an alienation instrument has been recorded (44-9-1). A certificate issued on or after October 1, 1966, by the town or city tax collector showing all taxes and other assessments which constitute liens on the real estate may be filed or recorded with the land evidence records of the city or town in which the real estate is situated within sixty (60) days after its date. The fee for filing the certificate with the registry of deeds is $8.00 (44-7-11).

Any agreement between a city or town and a bank or other financial institution regarding the sale of rights to uncollected taxes must be filed with the city or town clerk (44-7-25).

In case of a tax sale, the tax collector must execute and deliver to the purchaser a deed of the land, subject to the right of redemption. **Notice of the sale must be given to the Rhode Island Housing and Mortgage Finance Corporation and/or to the Department of Elderly Affairs under the provisions of section 44-9-10.** The collector's deed must be recorded within sixty (60) days after the sale and forwarded promptly to the tax sale purchaser. The applicable recording fee shall be paid by the redeeming party (44-9-12). The tax collector must deliver to the town or city clerk's office or recorder's office a list of those properties sold at tax sale which the clerk or recorder must record or post in the land evidence records for their respective city or town within five (5) business days after the sale of real estate. The recorded or posted list must include the assessed owner's name(s), the address of the property and the assessor's plat and lot (44-9-13). If the tax collector purchases the real estate for the town, he must record the deed within sixty (60) days after the purchase (44-9-14). **(2011)**

The town treasurer may assign the tax title of land purchased or taken by the town, upon payment of the amount necessary for redemption, by recording the instrument of assignment (see form 2) within sixty (60) days from its date (44-9-18). The certificate of redemption shall be recorded by the treasurer on the land records within twenty (20) days after the entire redemption amount has been paid to the municipality. The recording costs for the certificate of redemption shall be paid by the redeeming party (44-9-19). When land sold to the town for nonpayment of taxes, which has not been assigned, is redeemed, the town treasurer must sign, execute and deliver a release (see form 3), which when duly recorded, is notice to all persons of payment (44-9-20). The recording of the town treasurer's certificate of redemption (see form 4) in the registry of deeds extinguishes all right and title acquired by the collector's deed (44-9-23). The notice of filing the petition for foreclosure of the right of redemption (see form 7) and the notice of the final disposition (see form 10) must be recorded in the proper registry of deeds (44-9-32). (2003)

If land purchased by the town for nonpayment of taxes is sold at public auction without foreclosure, the town treasurer must execute and deliver to the highest bidder a deed without covenant, which is not valid unless recorded within sixty (60) days after the sale. Title taken is absolute upon the recording of the deed of the treasurer (see form 13) in the proper registry of deeds within sixty (60) days (44-9-36). If the town purchases the land at public sale without foreclosure, the town treasurer must execute a deed which is not valid unless recorded within sixty (60) days after the sale. Title taken is absolute upon the recording of the deed (see form 14) in the proper registry of deeds within sixty (60) days (44-9-38).

The notice of the filing of the petition to establish the title to land based on a sale without foreclosure and the notice of the final disposition must be recorded in the proper registry of deeds (44-9-44).

A personal property tax lien (other than a lien on a motor vehicle) must be filed pursuant to the filing provisions in part 5 of 6A-9 of the Uniform Commercial Code (44-9-48). The lien is discharged in the same manner as termination statements are filed under 6A-9-513 of the Uniform Commercial Code (44-9-55). (2000)

TIME-SHARE PROPERTY

The Rhode Island Real Estate Time-Share Act (chapter 41 of title 34 of the General Laws) provides that a document transferring or encumbering a time-share estate may not be rejected for recordation due to the nature or duration of that estate (34-41-1.03).

The act, which applies to all time shares created in units within Rhode Island after May 7, 1984 (34-41-1.11), provides for several recordable documents to be recorded in the land evidence records of the city or town in which a portion of the time-share property is located. These documents include termination agreements (34-41-2.05), transfers of special developer rights (34-41-3.04), liens for assessments (34-41-3.11), and amendments to project instruments adopted by direct initiative or referendum of the owners (34-41-3.14).

A judgment for money against an association, if recorded in the land evidence records in the city or town where the land is located, is a lien against all the time shares. The judgment must be indexed in the name of the association (34-41-3.07).

TRUST PROPERTY

Property to be held in trust must be conveyed to the trustees. An affidavit or memorandum of trust may be recorded in connection with the creation, amendment, restatement or revocation of a trust. Any transfer or mortgage of trust property by the trustees must require the recording of the trust instrument as amended or restated or an affidavit or memorandum (34-4-27).

UNDERGROUND STORAGE FACILITIES

Whenever the state director of environmental management issues an order or notice relating to an underground storage facility used for storing petroleum products, the director must send the order or notice to the city or town where the facility is located. The order or notice must be recorded in the general index of the land evidence records by the appropriate municipal officer. When the requirements of the order have been satisfactorily completed, the notice of satisfactory completion must be recorded in the same manner (42-17.1-2).

UNIFORM COMMERCIAL CODE (SEE SECURED TRANSACTIONS)

WATER POLLUTION

The Director of the Department of Environmental Management pursuant to Chapter 46-12 of the general laws – "Water Pollution" is authorized to issue violation notices and compliance orders.

Any violation notice or compliance order issued is eligible for recordation. The Director must forward the original notice or order to the city or town in which the subject property is located, and the notice or order must be recorded in the land evidence records. Upon completion of the requirements of the notice or order, the written notice of completion provided to the owner by the Director must also be recorded (46-12-9). (2011)

WETLANDS

If the director of the department of environmental management issues a permit for a project subject to review under the state wetlands act, a notice of the permit and a notice of the completion of the work shall be eligible for recordation and must be recorded at the expense of the applicant in the land evidence records of the city or town where the project is located (2-1-22).

If a person requests a preliminary determination as to whether or not the wetlands act applies to the project, the director must notify the person of his decision by letter. Copies of the letter must be sent by mail to the city or town clerk, the zoning board, the planning board, the building official and the conservation commission in the city or town within which the project lies (2-1-22).

ZONING ORDINANCES

A written protest against a proposed amendment or repeal of a zoning ordinance, signed and acknowledged by the owners of 20% of the affected property, must be filed in the office of the city or town clerk on or before the day of the hearing on the change within three (3) days after the hearing (45-24-5).

According to the Rhode Island Zoning Enabling Act of 1991, upon publication of a zoning ordinance and map and any amendments, the town and city clerk must send a copy, without charge, to the statewide planning program, R.I. Department of Administration and the State Law Library (45-24-45). Other provisions of this Act concerning town and city clerks include: (1999)

- **In the case of an accessory family dwelling unit, the zoning enforcement officer shall require that a declaration of the accessory family dwelling unit for the family member or members and its restrictions be recorded in the land evidence records and filed with the zoning enforcement officer and the building official (45-24-37). (2008)**

- Any limitations and conditions imposed by a town or city council in granting a zoning ordinance amendment must be recorded in the land evidence records (45-24-53).

- The town or city clerk is the custodian of the zoning ordinance and zoning map(s) (45-24-55).

- Decisions of local zoning boards of review must be recorded and filed in the office of the city or town clerk within 30 working days from the date when the decision was rendered, and shall be a public record (45-24-61A). (1999)

- Any decision by a zoning board of review evidencing the granting of a variance, modification or special use must be recorded in the land evidence records of the city or town (45-24-61B). (1999)

- An aggrieved party may appeal a decision of the zoning board of review to the superior court for the county in which the city or town is situated by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of the city or town clerk. The decision must be posted in a location visible to the public in the city or town hall for a period of 20 days following the recording of the decision in the office of the city or town clerk (45-24-69). (1999)

Tolling of expiration periods. Approvals issued pursuant to local ordinances are tolled until June 30, ~~2011~~ **2013.** Although the tolling need not be recorded to be valid, a notice must be posted in the municipal planning department and near the land evidence records.

The tolling shall apply only to approvals or permits in effect on November 9, 2009**,** and those issued between November 9, 2009 and June 30**,** ~~2011~~ **2013** (45-24-61.1)**. (2011)**

CHAPTER 4

PROBATE

PROBATE CLERK

Clerk. Unless otherwise provided by law, the city or town clerk is the clerk of the probate court of the city or town (8-9-6).

Duties of clerk. The clerk must attend all meetings of the probate court. The clerk must record the proceedings of the court and must also record all wills, administrations, inventories, accounts, decrees, orders, determinations and other writings which are made, granted or decreed upon by the probate court. The clerk has the custody and safekeeping of the seal of the probate court and of all books and papers belonging to the probate office and of any stenographic or electronic recording of any probate court proceedings made by the probate clerk. The probate clerk is required to retain stenographic and electronic recordings of any probate court proceedings only for one (1) year from the date of the hearing (8-9-7).

Clerk pro tempore. If the town clerk is not present at the time and place appointed for a meeting of the probate court, the court may appoint a temporary clerk (8-9-8).

PROBATE JURISDICTION

General. Every probate court has jurisdiction, in the city or town in which it is established, of the probate of wills; the granting of administration, the appointment of custodians, of administrators, of guardians of persons and estates or of persons only or of estates only; and of conservators; the accepting and allowing of bonds, inventories, and accounts of executors, administrators and guardians; the granting of leave to sell at public or private sale, or to mortgage property; of the making of partition of the real estate of deceased persons; of the adoption of persons eighteen (18) years of age or older (form #6); of change of names of persons (form #19); of the removal or filling of a vacancy of a trustee of any trust established under a will, or the termination of the trust; of setting off and allowing real estate and personal property to widows and surviving husbands; and of all other matters now within the jurisdiction of probate courts (8-9-9).

The court has power to accept the resignation of, or to remove, any custodian, executor, administrator or guardian, or any other person appointed by the court, and also power to do and transact all matters and things incidental to the jurisdiction and powers vested in probate courts by law. The jurisdiction assumed in any case by the court, so far as it depends on the place of residence of a person, shall not be contested in any suit or proceedings except in the original case or on appeal or when the want of jurisdiction appears on the record (8-9-9).

Appointment and supervision of temporary custodians. Every probate court may appoint any suitable person or persons as custodian or custodians to have the charge and care of the **real** and personal property of deceased persons, the settlement of whose estates is within the jurisdiction of the court, until letters testamentary, or of administration, are granted (8-9-10).

(2000)

Power to take probate and grant administration. The probate court of any city or town, shall take the probate of wills and grant administration on the estate of deceased persons who, at the time of their decease, were inhabitants of or residents in the city or town, and of other persons, not having any residence in the state, who die leaving rights, credits or estates, real or personal, within the city or town. However, the first probate of the will, and the first grant of administration on the estate, of any deceased person who, at the time of his decease, was not an inhabitant of, or resident within, this state, shall bar any other probate or grant of administration, although the deceased person may have left rights, credits, or estates, real or personal, in any other town or city in this state (8-9-11).

Revocation or modification of warrants and commissions. Any warrant or commission for the appraisement of an estate, for examining claims against the estate of a deceased person, for the partition of real estate, or for the assignment of dower or other interest in real estate may be revoked by the court for sufficient cause. The court may thereupon issue a new warrant or commission, or proceed otherwise, as the circumstances of the case may require (8-9-13).

Revocation or modification of orders or decrees. Any probate court may modify or revoke any order or decree made by it on an uncontested application before appeal therefrom. If no appeal is taken, the revocation or modification must be made before the time for taking an appeal has expired. Upon any modification or revocation, there shall be the same right of and time for appeal as in case of any other order or decree (8-9-14).

Annulment of probate of will. When it shall appear to a probate court, pending proceedings before it for the settlement of an estate as a testate estate, that the will under which the proceedings were had has been revoked by the testator, the court has the power to annul any order and decree proving the will so revoked, and any other order or decree made by the court in the settlement of the estate under the will. The court has the power to proceed with the settlement of the estate under a subsequent will. If there is no subsequent will, the court has the power to grant administration on the estate and proceed with the settlement as an intestate estate after notice is given to all parties in interest as the court shall order. The preceding executor or administrator is not personally liable for any thing done by him in good faith and in the line of his duties before the decree of annulment (8-9-15).

Confirmation of prior acts and proceedings. When the validity of an act or proceeding of a probate court is called in question by reason of an alleged irregularity, defective notice, or want of improper exercise of authority, any party interested in or affected by the act or proceeding may apply to the probate court having jurisdiction of the subject matter in respect to which the act or proceeding has been had. The court, after notice as it may order to all interested parties, may hear and determine the matter and confirm the act or proceeding, in whole or in part. The court may authorize and empower the executor, administrator, guardian, or any successor, or other person who may be legally appointed to act in the same capacity, to confirm the act or proceeding and to execute and deliver any deeds, releases, conveyances and other instruments necessary for that purpose. No act or proceeding shall be confirmed which the court might not have authorized in the first instance upon due proceedings (8-9-16).

Power to summon and receive evidence. Any probate court may require the attendance of any party or person, whom it may see fit to examine or cause to be examined in any proceeding pending in the court. It may examine or cause to be examined on oath parties and witnesses, either orally, or on written interrogatories, or both. It may receive their affidavits and may require any writings or other evidence pertinent in the proceedings to be produced. The court may issue writs of subpoena ad testificandum, and of subpoena duces tecum (form #66) (8-9-17). Justices of the peace and notaries public may issue subpoenas to witnesses and subpoenas duces tecum in any case pending before any probate court (8-9-17.1).

Judicial aid in taking possession of property of estates. If any person has, or is suspected of having, under his control any property or documents belonging to the estate of a deceased person, or person under guardianship, or any thing which may tend to disclose the condition of the estate and he refuses to deliver them to the executor, administrator, guardian, conservator or custodian without legal justification for the refusal, the probate court may, upon written application, cite the person to appear before the court (8-9-18).

Presumption of death-Sea disaster. If a person is lost at sea, the estate of the person may be administered by an heir after 6 months from the date of an official determination or finding that the person was lost in a sea disaster (8-9-22).

Presumption of death-Missing person. If a person is missing for more than 4 years, it shall be prima facie evidence that the person is dead so as to allow for the administration of his or her estate (8-9-23).

CUSTODY AND PROBATE OF WILLS

~~**Deposit with probate clerk**. A will may be deposited in the office of the probate clerk in the city or town where the testator lives to be safely kept until delivered or disposed of. The clerk receives a fee of $10.00 for receiving and keeping the will and must give a certificate of deposit (33-7-1).~~ **Repealed (2008)**

~~**Wrapping and indorsement**. Every will deposited with the probate clerk must be in a sealed wrapper with an indorsement of the name and place of residence of the testator on it. It must also contain the date when deposited and the name of the person by whom it is deposited. It may also contain the name of the person to whom the will is to be delivered after the death of the testator. The will must not be opened until it is delivered to a person entitled to receive it (33-7-2).~~ **Repealed (2008)**

~~**Person to whom will delivered**. During the lifetime of the testator, the will can be delivered only to the testator himself or in accordance with his written order duly approved before the probate judge. After the testator's death, the will must be delivered to the person named in the indorsement, if the person demands it (33-7-3).~~ **Repealed (2008)**

~~**Disposition of deposited will**. If the will is not called for by the person, if any, named in the indorsement, it must be retained in the clerk's office until it is opened at the first probate court held after the notice of the testator's death (33-7-4).~~ **Repealed (2008)**

Delivery of will into court. Every person, other than a probate clerk, who has the custody of a will must, within thirty (30) days after the notice of the death of the testator, deliver the will into the probate court of jurisdiction; or to the executors named in the will (33-7-5).

Disposition of documents intended as last wills and testaments. Probate courts are directed to return all documents in their possession intended as last wills and testaments as follows:

(1) A notice, by certified mail, to be sent to each testator, and/or person designated to receive the will upon death, including the drafting attorney, if known, at the last known address of each, indicating that the probate courts are no longer required to maintain custody of such documents, and that the documents are available for return upon execution of the appropriate receipt.

(2) Probate courts are not required to retain further possession of the documents for a period not to exceed 12 months following the issuance of the certified mail notice (33-7-7.1). (2008)

Notice to executors. If any of the executors named in a will are not parties to a petition for probate, the clerk of the probate court, upon probate of the will, must notify by mail the executors who are not parties and whose post office addresses are known or can be ascertained (33-7-9).

Compromise of controversies. If the probate of a will is pending on appeal in Superior Court, the clerk of the probate court appealed from receives for record from the clerk of the Superior Court certified copies of the decree admitting the will to probate. The probate clerk also receives copies of the compromise and the decree of the Superior Court approving the compromise (33-7-17).

If the probate of a will is pending in probate court, the clerk of the probate court receives for record from the clerk of the Superior Court certified copies of the compromise and the decree of the Superior Court approving the compromise. Then the probate court may admit the will to probate (33-7-17).

Recording of foreign will. When a copy of a duly authenticated foreign probated will is produced in a probate court and the probate court receives a written request (form #36) that the will be filed and recorded in the office of the probate clerk, the court must assign a time and place for a hearing on the request. The testator must have had real or personal property in the city or town in which the request is made (33-7-18).

Upon such request, the court must cause notice to be given in the same manner as if the will had been presented to the court for probate (33-7-19).

If, at the hearing, no sufficient cause is shown to the contrary, the probate court may order the copy to be placed on file and recorded. A certified copy of the will must be recorded in the records of land evidence in any other city or town in which any real estate, upon which the foreign will may operate, is situated (33-7-20). See 33-7-21 as to issuing letters testamentary or letters of administration regarding foreign wills.

Taking of wills from files of court. Original wills must be kept on file in the probate court where they were proved and can only be taken from the files by an order of the court or under the provisions of law (33-6-32).

Under certain conditions, the probate court in which an original will has been duly proved, allowed and recorded may permit the original will to be taken from the files of the probate court after the expiration of the time within which an appeal may be taken (33-7-24).

Original probate of foreign wills. Under certain circumstances, the will of a nondomiciliary may be admitted to original probate in any probate court in this state in the same manner as any other will (33-7-25).

Proof of purported will or codicil. In the absence of an objection by anyone interested in the estate of a deceased person, the probate court may admit to probate a purported will or codicil of a deceased person upon oral testimony or an affidavit in a manner prescribed by law (33-7-26).

PRACTICE IN PROBATE COURTS

Petitions. Every application, petition or complaint to a probate court must be in writing and must be signed by or in behalf of the person making the same. When the death certificate of an inmate of an institution maintained or controlled by the state is filed, the clerk of the probate court must give written notice of the filing of the petition accompanying the same, to the commission, board, department or division having the management or control of the institution (33-22-1).

Contents of petitions (form #72). In any petition filed for the probate of a will or for the first grant of original or ancillary administration, the petitioner must set forth under oath in the petition:

(1) The title of the proceeding and the name and address of the petitioner.

(2) The domicile of the decedent, together with any other facts upon which the jurisdiction of the probate court to which the petition is directed may depend.

(3) So far as known to the petitioner:

(a) The names and post office addresses of the surviving spouse and heirs at law. Provided, however, if no heirs at law are listed, the petitioner must file an affidavit under oath setting forth what efforts the petitioner has made to locate heirs at law.

(b) If any such person be under the age of eighteen (18) years, his age, post office address, and the names and post office addresses of his parents, or such of them as may be living, and of his guardian or guardians if any.

(c) If any such person be an adjudged incompetent, the name and post office address of his guardian or guardians if any, and the name and post office address of the person or institution having the care or custody of the incompetent.

(d) If the petition is for the allowance of a will, it shall also contain the names and post office addresses of the named beneficiaries entitled to take there under to the extent that they are different than the heirs at law (33-22-2). **(2008)**

Notice given by petitioner. A petitioner or his attorney must at or prior to a hearing on a petition file or cause to be filed an affidavit that proper notice was given, setting forth the names and post office addresses of the persons to whom the notice was sent and the date of the mailing, postage prepaid, together with a copy of the notice. **When a decedent was fifty-five (55) years or older notice must be given to the Executive Office of Health and Human Services.** Notice must be given at least ten (10) days before the date set for the hearing. If a person entitled to notice has a post office address outside the continental United States, notice must be given at least three (3) weeks before the date set for the hearing (33-22-3). **(2012)**

Contested wills. In the case of a probable contested will, the court may order the petitioner to file with the clerk of the court the same information relative to legatees and devisees, if any, named in the will or their representatives as is required relative to a surviving spouse and heirs at law (33-22-4).

Waiver of notice. If all interested parties, excluding the legatees and devisees named in the will unless they are entitled to notice under 33-22-4 waive in writing the notice required by 33-22-3 or 33-22-4 and assent to action upon the petition by the court at any time (form #70), the probate court may proceed to hear the cause without publication or further notice (33-22-5).

Additional notice given. The notice prescribed by 33-7-9 and the notice by publication in the manner prescribed by 33-22-11 must also be given in all cases in which notice by mail is required by 33-22-3, unless waived in writing by the surviving spouse and heirs at law (33-22-6).

Failure to comply with any of the provisions in 33-22-2 to 33-22-4, inclusive, shall not defeat the jurisdiction of the court or affect adversely the regularity of any proceedings in which the failure shall have occurred, and upon discovery thereof the court may make such further orders as the circumstances may require (33-22-6).

Notices given by court (form #7). Every probate court must give notice, before proceeding, to all parties known to be interested in the following cases:

(1) In the granting of letters of administration.

(2) In the probate of a will.

(3) In the appointment or approval of a conservator or guardian.

(4) In any complaint for the removal of an executor, administrator, conservator or guardian.

(5) In the acceptance of the resignation of an executor, administrator, conservator or guardian.

(6) In the making of any decree upon the account of an executor, conservator or guardian.

(7) In the appointment of commissioners and in the making of any order upon the report of commissioners on any estate.

(8) In the making of any order of distribution among the next of kin of a deceased person.

(9) In any petition of an executor, administrator, conservator or guardian for leave to sell real estate of the testator, intestate or ward.

(10) In the granting of any petition of a conservator or guardian for leave to make a mortgage or written lease of real estate of his ward.

(11) In canceling the bond or an executor, administrator, conservator or guardian.

(12) In making an allowance out of the estate of a deceased person for the support of his family.

(13) In any petition of an executor or administrator for leave to mortgage real estate of the testator or intestate.

(14) In setting off and allowing real estate in fee, or the proceeds of sale thereof, to a widow or surviving husband (33-22-7).

Notice of authority to sell or mortgage real estate. Authority to sell or mortgage real estate cannot be given to a guardian until notice, by public advertisement or otherwise, has been given to the husband or wife and the next of kin of the ward. Authority to mortgage cannot be given to an executor or administrator until personal notice has been given by citation to all known interested parties (33-22-8).

Notice of account containing credit. When the account of an executor, administrator or guardian contains a credit of the proceeds of a sale or mortgage of real estate (or of any interest), the notice given before the settling of the account must state that the account contains the credit (33-22-9).

Notice in discretion of court. In all other cases in which notice is not required by law, the court may, in its discretion, before proceeding order notice (33-22-10).

Notice by advertisement (form #7). When notice is required to be given and no special provision is made, it must be given by advertisement of a notice once a week; for at least two (2) weeks, the first advertisement to be published at least fourteen (14) days before the first of any hearing dates contained in such notice, in a newspaper printed in English and published in the county or in a Providence newspaper having general circulation within the county in which the matter is to be acted upon. (2004)

When a probate court gives, or orders to be given, notice by advertisement in a newspaper which has furnished the court with a definite schedule of prices for advertising, the court must require the cost of the advertising to be paid to the clerk in advance. Each month the court must pay the newspaper the sums paid in, upon proof that the notice has been advertised as ordered (33-22-11).

Notice by service or mail. Notice may also be given, in addition to the foregoing, in any one of the following modes:

First. By causing a citation to be served, if within this state, by a ~~sheriff,~~ deputy sheriff, town sergeant or constable, and, if without the state, by some disinterested person, upon all known parties interested, at least seven (7) days before the proceeding. The citation must give notice of the subject matter of the proceeding and of the time and place thereof. It must be served by reading the same to each of the parties or by leaving an attested copy with him or at his last and usual place of abode with some person living there. If service is made without the state, the person making the service must make return under oath of the manner in which, the time when and the place where service was made. **(2012)**

Second. By mailing notice to all persons interested whose post office addresses are known (33-22-12).

Foreign language newspaper. The court may also, in addition to the foregoing modes, order notice by advertisement in a newspaper published in other than the English language, or in such other manner as the case may require (33-22-13).

Findings of court as to notice. If it appears to the court, before proceeding, that satisfactory notice has been given to all known parties interested, by the clerk, upon applications made to him, in accordance with the provisions of law, the court may proceed . **Notice by telephone, facsimile, e-mail or other electronic transmission may supplement, but shall not discharge any party's obligation to give notice by service or mail** (33-22-14). **(2007)**

Dispensation with notice. The notice required by law in any proceeding in a probate court may be dispensed with if all parties entitled thereto assent in writing to the proceeding (33-22-15).

Probate forms. The Legislative Commission to study the feasibility of modernizing probate law and procedure shall prescribe the forms to be used by the probate courts and for the records thereof. The forms shall be printed, and furnished by the secretary of state or his or her designee to the clerks of the probate courts. All probate courts must furnish the forms without charge to the parties and to attorneys admitted to practice before the courts of the state. The probate courts may require all parties to use the forms (33-22-16). (2001)

Guardian ad litem (form #39). A probate court may appoint some competent and disinterested person to act as guardian ad litem, or next friend, to represent the interest of a person unborn, unascertained, or legally incompetent to act in his own behalf in any proceeding in a probate court (33-22-17). (2004)

Administration of oaths. Oaths required in proceedings in probate courts may be administered by the judge or clerk in or out of court, or by a notary public or justice of the peace. When an oath is administered out of court, a certificate thereof must be returned and filed or recorded with the proceedings; but the judge may require any such oath to be taken in open court (33-22-18).

Recording. All the decrees and orders of the probate court must be made in writing, and must be recorded by the clerk in books kept for that purpose (33-22-19). At the request of either the presiding probate judge or any party to the proceedings, any proceedings in probate court must be recorded by either electronic or stenographic means by the probate clerk. The probate clerk determines the means to be utilized (33-22-19.1).

If an appeal is claimed the appellant is responsible for all transcription costs. **If the city or town utilizes electronic means to record proceedings, the probate clerk must, upon request, provide the appellant's stenographer with accommodations to transcribe the original tape recording on site or provide a true copy to permit transcription off site** (33-22-19.1). **(2007)**

Physical possession of the original recording or transcription notes shall remain with the probate court unless otherwise ordered by the superior court. The written transcript and electronic recording shall be deemed a public record (33-22-19.1).

Local administrative rules. Every probate court must promulgate local administrative rules designed to facilitate the efficient discharge of the statutory duties of the court. The rules must include the following: the dates and times when the court is in session; procedures for docketing of cases at hearings of the court; the scheduling of special sessions; and deadlines for the submission of pleadings or other filings (33-22-29).

The local rules must be clearly posted in the office of the probate clerk. Copies of the rules must be available to any interested party from the probate clerk (33-22-29).

Dockets and special sessions. The probate clerk must prepare dockets of matters at regular sessions of the probate court. The docket must be heard by the court in such a way as to ensure that formal and uncontested matters are heard before contested matters. The probate court may hold additional special sessions as reasonably necessary to hear contested matters without additional fees or charges (33-22-30).

Form of order or decree. Every decision of a probate court must be reduced to a written order or decree, promptly executed by the probate judge; entered and filed in a timely fashion by the probate clerk (33-22-31).

If a form of order or decree is not available for execution by the probate judge at the time of hearing, the court shall require the prevailing party to submit a proposed form of order or decree by regular mail to all parties who have entered an appearance in the matter. If there are no written objections within 7 days after the mailing, the prevailing party must file the original with the probate court. The order or decree must contain a certificate that notice has been given. For all purposes, the effective date of an order or decree is the date executed by the probate judge and not the date of the hearing (33-22-31).

APPOINTMENT OF EXECUTORS AND ADMINISTRATORS

Letters testamentary. Upon the probate of a will (form #72), the probate court must issue letters testamentary to the executor named in the will, if he is legally competent, and if he gives bond as required by law (33-8-1).

If a person named as executor in a will and having possession of the will neglects and refuses to present the will for probate within thirty (30) days after the decease of the testator, or within thirty (30) days after he has knowledge that he is so named, he will be deemed to have declined the office (33-8-3).

If the person named as executor in the will has deceased or is incompetent or refuses to accept the trust (form #1) or neglects to qualify for thirty (30) days after the probate of a will or within thirty (30) days after the notice of probate, the court must grant letters testamentary to the other executors, if any are named in the will, who are competent and qualify. Otherwise the court, upon petition, must grant administration on the estate with the will annexed to some suitable person (33-8-4).

Letters of administration. In the absence of a will an administrator will upon proper petition (form #3) be appointed by the probate court having jurisdiction over the estate.

If the widow or surviving husband and the next of kin neglect to apply for letters of administration within thirty (30) days after the decease of a person intestate, or are unsuitable for the discharge of the trust, or renounce the administration, the probate court may, on petition of some party in interest, grant administration to any suitable person (33-8-8).

Bond (form #12). Every executor, administrator and guardian, before entering upon the execution of his trust, must give bond in such amount and with such surety or sureties as the probate court deems sufficient to guarantee the faithful accounting and administration of the estate (33-17-1).

No surety is required on any bond, including surety on a bond for the sale of real estate, of an administrator of the estate of a person who died intestate when the administrator is the surviving spouse or the sole heir of the decedent. The probate court, however, may require such surety if the circumstance so warrant (33-17-1.2).

No surety shall be required on any bond of a guardian of the person and/or estate when the guardian is the spouse, parent, child, brother, sister or other heir-at-law of the ward if such guardian demonstrates to the satisfaction of the probate court that circumstances warrant the waiver of surety and/or that no surety should be required (33-17-1.3). (1999)

Any bond required to be given to a probate court must be examined and approved by the court, or examined by the clerk and found to conform to the order of the court before it can be accepted. The approval of the court or the clerk must be entered in the record (33-17-7).

All bonds must be made payable to the court, and must be filed in the office of the probate clerk (33-17-9).

Every person interested in a bond given to a probate court is entitled to a copy on the payment of a fee (33-17-14).

Custodians. A probate court may appoint a custodian (form #31) to have charge and care of the **real** and personal property of a deceased person until letters testamentary or letters of administration are granted. The court may require the custodian to give bond, with or without surety (8-9-10). (2000)

MANAGEMENT OF ESTATES

Every executor or administrator is required to file with the probate court an inventory and appraisement (forms #45 & 46) of the decedent's personal property (both tangible and intangible) within ninety (90) days after his appointment or such longer period as the court may allow (33-9-1).

The property comprised in the inventory must be appraised by the executor or administrator. Upon the petition of any party in interest, the court may appoint one or more appraisers to value the assets of the estate. The appraisers are sworn to the faithful discharge of their trust (33-9-4).

The executor or administrator must file a petition to obtain the advice and direction of the probate court before selling the mortgage and the debt secured thereby for less than the amount due (33-9-10).

The executor or administrator of the estate of any decedent owning real estate shall cause a **certificate of descent** to be recorded in the land evidence records of every city or town in which real property of the decedent is situated, and it shall constitute prima facie evidence of the facts stated in it (33-9-29). { **Amended language eliminates the filing of an affidavit and procurement of the certificate of descent from the probate court.** } **(2006)**

Donation of Conservation Easement (33-9-30) - see Conservation and Preservation Restrictions on page 24. (2009)

Within six (6) months after the first publication of the notice of the qualification of the executor or administrator, an application (form #71) may be filed by the executor, administrator or any party in interest for allowances for the temporary support of the decedent's family. A 2nd six (6) months' allowance may be allowed within one (1) year after the first publication in the discretion of the court (33-10-3).

CLAIMS

Manner of presentation of claims. Claims against a decedent's estate may be presented as follows:

(a) The claimant presents a written statement of the claim with the clerk of the probate court indicating its basis, the amount claimed (if known), the name and address of the claimant, and the name and address of the claimant's attorney (if any) and delivers or mails a copy to the personal representative. The claim is deemed presented when filed with the probate court. The claimant has the burden of establishing proper and timely presentation of the claim.

(b) No presentation of claim is required for matters already claimed in proceedings which were pending against the decedent at the time of his or her death (33-11-4). **(2008)**

Time allowed. All claims must be filed within six (6) months from the first publication by the probate clerk of the notice of the qualification of the **original personal representative of the decedent's estate.**

A creditor who, by reason of accident, mistake, excusable neglect or lack of adequate notice of decedent's estate, failed to present a claim within 6 months from the first publication, may before distribution of the estate, petition the probate court for leave to present a claim out of time. Notice of commencement of probate pursuant to section 33-11-5.1 at least 60 days before the expiration of the 6 months claim period is deemed adequate (33-11-5). **(2008)**

Duty to notify creditors. If the identity of a creditor of the decedent's is known to or reasonably ascertainable by the **personal representative,** the **personal representative** shall take such steps as are **reasonably** necessary to ensure that the creditor receives or has received actual notice of the commencement of the decedent's estate.

A creditor must present a written statement of the claim indicating its basis, the amount claimed, the name and address of the claimant, and the name and address of the claimant's attorney (if any) within 6 months after qualification. Claims should be mailed to the personal representative or attorney and filed with the clerk of the probate court (33-11-5.1). **(2008)**

Fiduciary's affidavit regarding notice to creditors and OHHS. In order to close an estate, whether by accounting or affidavit of completed administration, the fiduciary must submit to the probate court an affidavit stating that notice was mailed to all known or reasonably ascertainable creditors of the estate, as well as to the Executive Office of Health and Human Services when the decedent was fifty-five (55) years or older, or that no notice was required because the estate had no known or reasonably ascertainable creditors and the decedent was under the age of fifty-five (55) (33-11-5.2). (2012)

Address of creditor. Every creditor must file with his claim, in the office of the probate clerk, his post office address and must give notice to the clerk of any change of his address during the administration of the estate. All notices to which the creditor is entitled may be sent to the address so filed (33-11-6).

Affidavit to support claim. **If requested by the personal representative or any party interested in decedent's estate, a claimant shall file in the office of the clerk of the probate court a sworn affidavit** (33-11-7). **(2008)**

Presentation of contingent claim. A **creditor** who has a contingent claim against a **decedent**, which cannot be proved as a debt within the time allowed for **presenting** claims, may **present its contingent** claim ~~in the office of the clerk of the probate court~~ within the time allowed for filing claims (33-11-9). **(2008)**

Disallowance of claim (form #33). Any claim **presented** within six (6) months from the first publication of notice of qualification may be disallowed in full or in part within six (6) months and thirty (30) days from the first publication by the **personal representative** or by any interested **party**, by filing in the office of the probate clerk a statement disallowing the claim. Any claim ~~filed~~ **presented** after six (6) months from the first publication may be disallowed in full or in part within thirty (30) days after ~~notice of filing~~ **presentation** (33-11-14). **(2008)**

Late disallowance. Any claim not disallowed within the prescribed time, and which has not been paid, may be disallowed anytime before the distribution of the estate, by petitioning the probate court for leave ~~to file a statement disallowing~~ **to disallow** the claim **out of time.** The probate court, after notice to all interested persons and a hearing on the petition, may grant leave to ~~file the petition~~ **disallow the claim out of time** upon such terms as the court may prescribe (33-11-15). **(2008)**

Disallowed claims against solvent estates (form #28). ~~If the estate is solvent, the executor, administrator, or creditor filing the claim may, within ten (10) days after the disallowance of a claim, file a request (form #27) that any claim disallowed be proved before the probate court~~ **If the estate is solvent, the personal representative, claimant or an interested party may request that the probate court determine the disallowed claim by petition filed within twenty (20) days of the disallowance** (33-11-16). **(2008)**

~~The probate court must attempt to schedule hearings within thirty (30) days after the expiration of the time limited for proving claims, unless further time for cause shown is allowed by the court (33-11-17).~~ **Repealed (2008)**

Hearings on insolvent estates. A **personal representative**, at any time during administration, may represent (form #44) the insolvent estate to the probate court, and may apply for the probate court to examine and determine claims. If the probate court finds the estate is probably insolvent ~~and there are claims which have been disallowed, the court shall schedule a hearing on the claims~~ **it shall hear and determine all disallowed claims and the priority of payment among all presented claims** (33-11-24). **(2008)**

At least fourteen (14) days before the first scheduled hearing date for claims in an insolvent estate, the executor or administrator must file in the office of the probate clerk a statement disallowing contested claims, not previously disallowed, as he intends to contest. As soon as possible, he must also file a like statement with respect to any claim thereafter filed which he intends to contest (33-11-29). (2000)

When the disallowance is filed, the executor or administrator must give written notice to the claimant, either personally or by registered or certified mail. When an objection is filed by an interested person, the probate clerk must give notice to the claimant in the same manner (33-11-30).

Notice of disallowance by probate court. If a claim against a solvent or insolvent estate is disallowed in whole or in part by the probate court, the probate clerk must mail a written notice of the disallowance to the claimant or to his attorney within seven (7) days after the filing of the court's order (33-11-37). (2000)

Claims based on action commenced against decedent before death. All claims brought against the decedent during his lifetime ~~must be filed~~ **may be presented** in the office of the probate clerk as provided in 33-11-4 and 33-11-5; but these claims need not be proved before the probate court, **or the personal representative may be joined as a defendant with notice to the probate court and served in the pending action** (33-11-44). **(2008)**

ESTATE AND TRANSFER TAXES

Notice by probate clerk (form #65). Within thirty (30) days after the granting of letters testamentary or letters of administration upon any estate, the probate clerk must notify the tax administrator of the name and address of the executor, administrator or trustee appointed, and the amount of the bond required by the court. The probate clerk must also furnish upon request certified copies of documents and other information from the records and files of his office in regards to an estate as the tax administrator may from time to time require (44-23-6). For circumstances under which the state tax administrator may apply to the probate court for the appointment of an administrator see 44-23-8.

Fees of probate clerk. The probate clerk furnishing the information required by 44-23-6 is paid out of any money appropriated for expenses of tax administration a fee of 15 cents for every one hundred (100) words of copy. The tax administrator may in his discretion make copies of the documents or any other records of the probate court; and if the copies are found by the probate clerk to be correct, he shall certify to their correctness and be paid a fee of 25 cents for each certification. All fees paid to a probate clerk under this section are disposed of in the same manner as is provided for the disposition of other probate fees under the provisions of Chapter 22 of Title 33 (44-23-7).

Proof of payment of domiciliary tax by administrator of nonresident. Within eighteen (18) months after the appointment in this state of an executor or administrator of any nonresident decedent, the executor or administrator must file with the probate court proof that all death taxes, including interest and penalties, have been paid or that no taxes are due. This refers to death taxes which are due to the state of domicile of the decedent. The filing of proof is not required if it appears that letters testamentary have been issued in the state of domicile. The proof may be in the form of a certificate issued by the official or body charged with the administration of the death tax law in the state of domicile (44-23-39).

Information furnished to foreign tax officials. If the proof of payment is not filed, the clerk of the probate court must notify by mail the official or body of the state of domicile charged with the administration of the death tax laws. The notification must contain, so far as is known to the clerk: (a) the name, date of death and last domicile of the decedent, (b) the name and address of the executor or administrator, (c) a summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to the decedent at the time of death, and (d) the fact that the executor or administrator has not filed the required proof (44-23-40).

The clerk must also attach to the notification a copy of the will, if he dies testate or a list of the heirs and next of kin, so far as is known to the clerk, if he dies intestate (44-23-40).

For each copy of the notice, the probate clerk is paid out of any money appropriated for expenses of tax administration the fees provided for in 44-23-7 (44-23-40).

Accounting on petition by foreign tax official. Within sixty (60) days after the mailing of the notice, the official or body charged with the administration of the death tax laws of the state of domicile may file with the probate court in this state a petition for an accounting (form #47) in the estate. If the petition is filed within the sixty (60) days, the probate court must decree the accounting. When the accounting is completed, it must be filed with and approved by the probate court (44-23-41).

Penalties. If any executor, administrator, heir-at-law, or trustee, probate clerk or other person neglects or refuses to file any statement or to furnish any other required information, or neglects or refuses to comply with any subpoena, he may be adjudged in contempt of court (44-23-24).

ACCOUNTS OF EXECUTORS AND ADMINISTRATORS

Times required. Every executor and administrator, except as provided in 33-17-3, is required by law to file an accounting (forms #2, 60, 61 & 62) of his administration with the probate court upon completion of the period of administration. Provided, however, that no interim account shall be required unless requested by an interested party. The interim accounting may be excused by the probate court for good cause shown. Every executor and administrator shall be permitted to file affidavits of completed administration in lieu of such account (33-14-1).

Examination on oath. An executor or administrator may be examined on oath before the probate court upon any matter relative to his accounts (33-14-3).

Citation to render account (form #24). Every probate court on petition therefor, whenever it deems proper, may issue a citation to an executor or administrator, having accounts unsettled with the court, to render an account relative to the estate, at such time as it may order in the citation (33-14-4).

LEGACIES, DEVISES AND INHERITANCE

Notice (form #11). Within **ninety** (**90**) days after the admission to probate of any will containing a devise or bequest to any corporation or voluntary association, ~~the clerk of the probate court before which the will is proved must deposit in the post office, postage paid~~ **the executor or administrator or other estate fiduciary shall mail by certified mail, return receipt requested,** a written notice of the devise or bequest directed to the devisee or legatee at the place where it is located. **An affidavit of notice together with the return receipt shall be filed in the probate court** (33-13-1). There is no statutory provision regarding notification of individual beneficiaries. **{ This amendment shifts the responsibility for providing notice from the clerk of probate court . } (2006)**

List of legatees. An executor is authorized, or for cause shown may be required, to file within two (2) years after the first publication of qualification a statement in the office of the probate clerk setting out the names of the legatees and the amounts to be paid and the property to be turned over to them or to be held by himself as trustee (33-13-6).

Notice of the filing of the statement containing the names of the legatees and of the time and place fixed by the court for the hearing must be given by advertisement at least twice each week for two (2) successive weeks in some newspaper, as ordered by the court. The probate clerk must also give notice by registered or certified mail to all persons interested whose post office addresses are known (33-13-6).

At any time after six (6) months from the date of the first publication of the notice of qualification of the first administrator, the probate court may make an order of distribution (form #52) if it appears that the administrator has paid all claims that have been filed and allowed or proved (33-13-11).

Within two (2) years from the date of the first publication, or such other time as the probate court for cause shown may allow, administrators are required to obtain an order of distribution, ascertaining the distributees and the proportion of the personal estate due each (33-13-12).

Foreign legatee or distributee. When a legatee or distributee resides outside of the United States or its territories and would not have the benefit, use or control of the money or property due him, the probate court may direct that the money or other property due him be paid into the registry of the probate court for his benefit (33-13-13).

Action for recovery of legacy. Notice of a suit to recover a legacy, when the action is to impress or preserve a lien or charge upon real estate, must be filed in the land evidence records of the city or town where the real estate is situated within ten (10) days of the commencement of the suit (33-13-9).

DISCLAIMER OF CERTAIN PROPERTY INTERESTS

Probate courts are empowered to authorize the execution and filing of a disclaimer on behalf of a beneficiary or a deceased beneficiary's estate (34-5-3).

Form. A disclaimer must be in writing and must describe the interest in property being disclaimed. It also must be signed by the beneficiary, the duly appointed guardian or conservator of a beneficiary or the legal representative of a deceased beneficiary's estate (34-5-4).

Time of filing. A disclaimer may be filed at any time after the creation of the interest in property being disclaimed but in any event:

(1) If a present interest not later than 9 months:

(a) After the death of the deceased owner in the case of a testamentary disposition or

(b) After the effective date of the instrument creating the interest in the case of a nontestamentary disposition or

(2) If of a future interest not later than 9 months after the event determining that the taker of the interest is in possession of it, or

(3) In the case of a beneficiary who is a surviving joint tenant or tenant by the entirety, not later than 9 months after the death of the other joint tenant or tenants or tenant by the entirety, or

(4) Notwithstanding the foregoing provisions, in the case of a beneficiary under the age of twenty-one (21) at the creation of such interest, not later than 9 months after his or her attainment of that age (34-5-5).

Filing and service of disclaimer. If the original disclaimer, or an attested copy, is required to be filed with more than one office, it shall be filed:

(1) In the case of personal property, in the office of the clerk of the probate court that had jurisdiction of the estate of the decedent at the time of death, if the interest was created by will. (Otherwise, according to law, it must be filed in Superior Court).

(2) In the case of real estate, in the office of the person having charge of the recording of deeds in the city or town in which the real estate is situated; and if probate proceedings have been commenced in the estate of the decedent prior to the filing, the disclaimer must also be filed in the office of the clerk of the probate court in which the proceedings are instituted (34-5-6).

LIMITED GUARDIANSHIP AND GUARDIANSHIP OF ADULTS

Any person may file with the probate court clerk, in the city or town where the proposed ward resides, or where an out-of-state proposed ward has property, a verified petition for the appointment of a guardian (33-15-2).

A decision-making assessment tool must be filed with the petition in each case, provided, that the probate court may excuse the filing of a decision-making assessment tool only on a petition for temporary guardianship in extraordinary or emergency circumstances and upon the provision of other competent evidence (33-15-4). No limited guardian or guardian shall be appointed until after a hearing on the petition. The hearing must be before a judge of the probate court of the city or town where the petition was filed (33-15-5). (2004)

A limited guardian/guardian with authority to make decisions regarding the ward's person must return to the probate court, in every year, the annual status report, in the form as shown in Section 33-15-47 regarding the status of the ward. If the required annual status report has not been filed, the court must cite the limited guardian/guardian and demand that the status report be filed within 30 days. **The probate court may waive the filing of an annual status report if warranted for good cause shown** (33-15-26.1). **(2012)**

Good Samaritan guardians. A good Samaritan guardian may be appointed by the probate court in those instances where the court determines that the estate of a proposed ward is insufficient to pay for the services of a guardian and that such an appointment would otherwise be in the best interests of the individual for whom the guardianship is proposed.

A person filing for appointment of a good Samaritan guardianship must file all the forms required to initiate a guardianship petition and must file an additional form setting forth the qualifications of the proposed guardian to serve as a good Samaritan guardian. Such forms shall **not** be prepared by the probate court (33-15-4.1). **(2008)**

For "Good Samaritan" guardianships under section 33-15-4.1 notice may be served upon the respondent by the guardian ad litem appointed by the court (33-15-17.1). **(2008)**

Temporary limited guardian. Pending any application for the appointment of a limited guardian/guardian, a probate court may appoint a temporary limited guardian or temporary guardian of a person and/or estate (33-15-10). The probate court may also appoint a temporary limited guardian for the specific purpose of facilitating the admission of the protected person to a nursing facility (33-15-8.1).

Guardians ad litem. Upon the filing with the probate clerk of a petition for the appointment of a guardian, a guardian ad litem shall be appointed for each respondent, **only in the proceeding for guardianship of an adult.** The guardian ad litem need not be an attorney, but shall have sufficient experience and/or training in dealing with elderly persons and persons with incapacities and /or disabilities, and understanding of his or her role as guardian ad litem to be able to properly discharge the required duties. Each probate court must maintain a list of persons deemed qualified to serve as a guardian ad litem, and must appoint from that list on a rotating basis (33-15-7). **(2008)**

Conservators (form #30). If a person, by reason of disability or upon his or her own election, is unable to properly care for his property, the probate court of the town in which the person resides, upon petition or the petition of one or more relatives or friends, may appoint a conservator of the property. When the petition is filed, the probate court must appoint a time and place for a hearing and must cause at least fourteen (14) days' notice (form #21) to be given to the person for whom a conservator is to be appointed if he is not the petitioner (33-15-44).

Conservators must give bond and file an inventory as is required of guardians of estates. All provisions of law relative to accounting and to the management, investment, sale, lease or mortgage by guardians apply to the accounting and to the management, investment, sale, lease or mortgage of estates by conservators (33-15-45).

Parental successor. A parental successor may be designated by: (1) an acknowledged document in a form to be prescribed by the department of mental health, retardation and hospitals, (2) the last will and testament of the person or persons having the right to make the nomination, or (3) formal appointment by the probate court in the city or town in which the petitioner, or at least one (1) of several petitioners reside. The court appointment shall be by petition heard ex parte as a probate matter without notice, unless required by the court (40.1-23-3). If a minor is named or appointed as a parental successor, he may actually serve only after reaching the age of eighteen (18) years (40.1-23-2).

If the appointment is by court order or will, a copy of the court order, or of the will together with a copy of the order admitting the will to probate, certified by the clerk of the court, must be furnished by an interested party to the director of the department of mental health, retardation and hospitals (40.1-23-4).

If a person or organization is designated as a parental successor by an authorized document or by a last will and testament, the written consent of the person or organization must be forwarded to the director of the state department of mental health, retardation and hospitals. If a person or organization is designated as a parental successor by a petition for court appointment, the written consent of the person or organization must accompany the petition for court appointment but the consent need not be forwarded to the department of mental health, retardation and hospitals (40.1-23-5).

The law providing for parental succession does not repeal, amend or modify any law relating to guardians of the person or of the estate of an individual. In the event of the appointment of the guardian of the person, the rights of the guardian will supersede and abrogate the rights of the parental successor (40.1-23-10).

Recording of petition. The petitioner for guardianship shall cause a copy of the petition, with the order of notice thereon, to be recorded in the records of land evidence for the city/town in which any real property of the respondent is located (33-15-13). (2001)

Removal or resignation. The probate court must remove any limited guardian, guardian or conservator appointed or approved by it upon finding that the limited guardian, guardian or conservator has not fulfilled or is no longer able to fulfill the duties of the appointment. The court must accept the resignation of any limited guardian, guardian or conservator after he/she has accounted with the court for the estate of the ward in his/her possession and filed a report regarding the status of the ward including the ward's current residence and condition (33-15-18).

Inventory and appraisement. Within thirty (30) days after his or her appointment, or such longer time as may be allowed by the probate court, a temporary guardian, guardian or limited guardian must return to the probate court, under oath, an inventory and appraisement of all the real and personal estate of his/her ward as of the date of the guardian's qualification (forms #45 & 46). The inventory and appraisement must be made by either the guardian and/or a suitable, disinterested person or persons appointed by the court (33-15-19). (2000)

Claims. Creditors of a ward must file statements of their claims in the office of the probate clerk. Claims filed within six (6) months from the publication of the notice of appointment of the limited guardian/guardian will be preferred in payment over claims subsequently filed (33-15-20).

Address of creditor. Every creditor must file his/her post office address in the office of the probate clerk, and, if requested, an affidavit in support of his/her claim (33-15-22).

Disallowance of claims (form #33). Within thirty (30) days after the expiration of six (6) months from the publication of the notice of the appointment of the limited guardian/guardian, the limited guardian/guardian must file in the office of the probate clerk a statement disallowing such of the claims filed as he/she intends to contest (33-15-23).

Annual account (form #2). A limited guardian/guardian must return to the probate court, in every year, his/her account, in the same manner as executors and administrators are by law required to do. The probate court must monitor each limited guardianship/guardianship file. If the court finds that an annual accounting has not been filed, the court shall cite the limited guardian/guardian and demand that an accounting be filed within 30 days. The court may, upon the application of the limited guardian/guardian, excuse him or her from rendering an account (form #40) in any year if satisfied that it is not necessary or expedient that it should be rendered (33-15-26).

Notwithstanding any provision of the General Laws to the contrary, no municipality, its officers, and/or employees, individually or otherwise, shall be held civilly liable for failure to monitor guardianship estates (33-15-26).

Sale of personal property. A limited guardian/guardian may make application for the sale of the personal property of his/her ward (form #58). The application may be granted by the probate court without notice (33-15-33).

Surplus of funds. Under certain circumstances, a limited guardian/guardian may be relieved of the requirement of surety on his or her bond if he/she has deposited with the probate clerk a savings bankbook, share certificate or other evidence of deposit or investment of his/her ward's surplus funds (33-15-35).

GUARDIANSHIP OF MINORS

The probate court in each city or town, if occasion shall require, shall have the power to appoint or approve guardians of the person(s) and estate(s) of minors who reside or have legal settlement in the city or town, and of the estate within the city or town (33-15.1-4.).

~~Pursuant to a petition by a parent for guardianship of a minor or adult child, the requirement that a guardian ad litem file a report shall be waived unless specifically ordered by the probate court~~ (33-15.1-4.1). **Repealed (2008)**

A probate court may appoint a guardian of a minor under the age of 14 years. A minor of the age of 14 years or over may nominate his/her own guardian, subject to approval by the probate court (33-15.1-5).

If a minor over the age of 14 neglects to choose a guardian or chooses one whom the court does not approve, the court may appoint a guardian in the same manner as if the minor were under the age of 14 years (33-15.1-6).

Inventory and appraisement. Within thirty (30) days after his/her appointment, or such longer time as may be allowed by the probate court, a guardian must return to the probate court, under oath, an inventory and appraisement of all the real and personal estate of his/her ward. The inventory and appraisement must be made by a suitable, disinterested person or persons appointed by the court (33-15.1-17).

Claims. Creditors of a ward must file statements of their claims in the office of the probate clerk. Claims filed within six (6) months from the publication of the notice of appointment of the guardian, if allowed or proved, shall be preferred in payment over all claims subsequently filed (33-15.1-18).

Addresses of creditors. Every creditor must file his/her post office address in the office of the probate clerk and, if requested, an affidavit in support of his or her claim (33-15.1-20).

Disallowance of claims. Within thirty (30) days after the expiration of the six (6) months, the guardian must file in the office of the probate clerk a statement disallowing such of the claims filed as he or she intends to contest (33-15.1-25).

Annual account. A guardian must return to the probate court, in every year, his/her account in the same manner as executors and administrators are by law required to do. If the guardian neglects to file an annual account, he/she will be cited by the court to file an account. If the guardian fails to comply with the citation for thirty (30) days, without sufficient excuse, he or she shall be accountable for the full value of the estate and property of the ward (33-15.1-29).

Sale of personal property. A guardian may make application for the sale of the personal estate of the ward. The application may be granted by the probate court without notice (33-15.1-24).

Surety on bond. Under certain circumstances, a guardian may be relieved of the requirement of surety on his or her bond if the guardian has deposited with the probate clerk a savings bankbook, share certificate or other evidence of deposit or investment of the ward's funds (33-15.1-27).

VETERANS' GUARDIANSHIPS

Notice of hearing. Not less than fifteen (15) days prior to a hearing in which the administrator of veterans affairs of the United States is a party, notice in writing of the time and place of the hearing must be given by mail (unless waived in writing) to the office of the veterans administration having jurisdiction over the area in which any suit or proceeding is pending (33-16-3).

Filing of petition. A petition for the appointment of a guardian may be filed by any relative or friend of the ward or by any person who is authorized by law to file such a petition (33-16-6).

Contents of petition. The petition for appointment must set forth the name, age, place of residence of the ward, the name and place of residence of the nearest relative, if known, and the fact that the ward is entitled to receive benefits payable by or through the veterans administration. It must also set forth the amount of monies then due and the amount of probable future payments (33-16-7).

The petition must also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation and address of the proposed guardian. Also whether the nominee is a natural person and the number of wards for whom the nominee is presently acting as guardian (33-16-8).

Notice of petition for guardianship. Notice must be given to the ward, to such other persons, and in such a manner as is provided by the General Laws of Rhode Island, and also to the veterans administration. Where no person is designated to give a notice required, the clerk of the proper court must give the requisite notice (33-16-12).

Filing of bond. Upon the appointment of a guardian, he must execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income of the ward during the ensuing year. The bond must be in the form and be conditioned as required of guardians appointed under the general guardianship laws of Rhode Island. The court may from time to time require the guardian to file an additional bond (33-16-13).

When a bond is tendered by a guardian with personal sureties, there must be at least two (2) sureties. The sureties must file with the court a certificate under oath which describes the property owned, both real and personal, and must state that each is worth the sum named in the bond (33-16-14).

Filing of annual account (form #2). Every guardian, who has received or will receive on account of his ward any monies or other thing of value from the veterans administration, must file with the court annually, in addition to such other accounts as may be required by the court, a full, true and accurate account under oath of all monies or other things of value so received by him (33-16-15). See 33-16-16 for statutory provisions regarding the filing of certificates at the time of filing an account.

Notice of proceedings to veterans administration and others. The probate court must fix a time and place for a hearing on an account, petition, motion or other pleading not less than fifteen (15) days nor more than sixty (60) days from the date of filing, unless a different available date is stipulated in writing.

Unless waived in writing, written notice of the time and place of the hearing must be given the veterans administration office concerned and the guardian and any others entitled to notice not less than fifteen (15) days prior to the date fixed for the hearing. The notice may be given by

mail in which event it must be deposited in the mails not less than fifteen (15) days prior to the date. The court, or clerk thereof, must mail to the veterans administration office a copy of each order entered in any guardianship proceeding wherein the administrator is an interested party (33-16-17). See 33-16-20 through 33-16-23 for other circumstances under which copies of petitions and notices of hearings thereon must be furnished to the proper office of the veterans administration.

Certified copies of public records. When a copy of any public record is required by the veterans administration in determining the eligibility of any person to participate in benefits made available by the veterans administration, the official custodian of the public record must without charge provide a certified copy of the record (33-16-24).

DECEDENTS' AND INCOMPETENTS' ESTATES GENERALLY

Publication of qualification (form #64). Upon the qualification of every executor, administrator, conservator or guardian, the probate clerk must give notice thereof by publication in such newspaper and as often as the court may direct. Creditors of the estate are thereby notified to file their claims in the office of the probate clerk within the six (6) months' period required by law. The probate clerk must file with the records for the estate a written statement which includes a copy of the notice and sets forth the dates and place of its publication (33-18-1).

Removal of fiduciary (form #56). Whenever an executor, administrator or guardian for any cause becomes incapable of executing his trust or neglects to perform his duties, the probate court, upon petition, and after a hearing, may remove the executor, administrator or guardian from office and appoint another person in his place (33-18-2).

Resignation of fiduciary (form #57). Whenever an executor, administrator or guardian, in writing, resigns his trust to the probate court having jurisdiction of the estate, the court may accept the resignation and, upon petition therefor, appoint a successor. The person resigning must settle his accounts with the court (33-18-4).

Appointment of agent by nonresident fiduciary (form #9). Every executor, administrator or guardian appointed in, but residing out of, the state must, before entering upon the duties of his trust, appoint in writing a "resident agent" to accept service of any legal process against him just as though he himself were a Rhode Island resident. The writing, which must include the address of the agent, must be filed in the office of the clerk of the probate court by which such appointment was made. The notice of appointment of the fiduciary must state the name and address of the agent (33-18-9).

When an executor, administrator or guardian moves outside the state, the same procedures apply (33-18-10).

If the agent appointed dies, resigns or removes from the state before the final settlement of the estate, another appointment must be made and filed in the same manner as described above (33-18-11).

Recording of documents in court. Any paper or instrument discharging a claim or purporting to acknowledge the performance of a duty or the payment of money, for which an executor, administrator or guardian is chargeable or accountable in a probate court, must, upon the request of an interested party, be recorded in the records of the court. Certified copies of the record may be used in evidence. The probate clerk must enter, record, index and certify any original paper or instrument offered as aforesaid (33-18-21).

Final discharge. If an executor, administrator or guardian has paid or delivered to the persons entitled thereto the money or other property in his hands as required by a decree of the probate court, he may present to the court, within one (1) year after the decree is made, an account of the payments or delivery, together with the vouchers therefor, which must be kept in the files of the court.

The account, being proved to the satisfaction of the court, and verified by the oath of the executor, administrator or guardian, must be allowed as his final discharge and ordered to be recorded (33-18-27).

Unclaimed funds (form #54). If money, which a decree of the probate court has ordered to be paid over, remains for six (6) months unclaimed, the executor, administrator or guardian who was ordered to pay over the same may deposit it in the registry of the probate court to accumulate for the benefit of the person entitled to it. The person making the deposit receives a receipt from the probate court. When the person, entitled to the money deposited, satisfies the probate court of his right to receive it, the court must cause it to be paid over and transferred to him (form #74), with all accumulations thereon (33-18-29).

Delivery of funds, securities or instruments. An executor, administrator or guardian may pay or deliver into the registry of the probate court which appointed him any unclaimed securities or instruments. He must present therewith his petition praying to be discharged from further liability and must set out under oath the title of the person entitled to the securities or instruments and the reason why that person cannot give a proper discharge therefor (33-18-30).

Once the petition has been filed, notice of the time and place of the hearing must be given as the court directs. After the hearing, the court may enter a decree granting a discharge (33-18-31).

ACCESS TO DECEDENTS' ELECTRONIC MAIL ACCOUNTS

Access to decedents' electronic mail. An electronic mail service provider must provide, to the executor or administrator of the estate of a deceased person who was domiciled in Rhode Island at the time of death, access to or copies of the contents of the electronic mail account of the deceased person upon receipt by the electronic mail service provider of a written request for access or copies made by the executor or administrator, accompanied by a copy of the death certificate and a certified copy of the certificate of appointment as executor or administrator, and receipt of an order of the probate court that has jurisdiction of the estate of the deceased person, designating the executor or administrator as an agent for the subscriber, as defined in the Electronic Communications Privacy Act, 18 USC 2701, on behalf of the estate (33-27-3). (2007)

REAL PROPERTY OF DECEDENTS AND INCOMPETENTS

Sale or mortgage of real estate (form #59). Upon a petition filed, a probate court may authorize an executor, administrator, guardian or conservator to sell, for cash or on credit, or to mortgage the real estate of a deceased or ward. The petition must describe the particular estate to be mortgaged or sold, the amount of money necessary to be raised and the purpose for which the money is required (33-19-1, 33-19-3).

If the property is subject to a widow's dower, the consent of the widow must be recorded in the records of the probate court (33-19-1, 33-19-20).

Every license granted by a probate court to sell real estate continues in force for one (1) year, and every license to mortgage real estate continues in force for six (6) months, from the date of the decree (33-19-6).

The executor, administrator or guardian must give bond (form #13 or #14) with surety that he will apply the proceeds of the sale or mortgage of the real estate to authorized purposes (33-19-7, 33-19-8).

Affidavit as to notice of sale. Within ten (10) days after making any sale at auction, the executor, administrator or guardian must make and file in the office of the probate clerk an affidavit stating the times and places of giving notice (33-19-12).

Foreign guardian of nonresident ward. When a nonresident ward has no guardian appointed in this state, the foreign guardian may file a copy of his appointment, duly authenticated according to an act of Congress in such cases, in the probate court of any city or town in this state in which there is real estate of the ward. Then, upon petition to the probate court, the foreign guardian may be authorized to sell, mortgage or lease the real estate of the ward in the same manner and upon the same terms as provided for guardians appointed in this state (33-19-27).

ABSENTEE ESTATES

Receiver (form #53). Before a probate court can appoint a receiver, it must give at least thirty (30) days' notice by publication in a newspaper published in the state, in the manner provided for petitions for the appointment of administrators. A copy of the notice must be mailed to the last known address of the absentee. The notice must be addressed to the absentee and to all persons who claim an interest in the property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property of the absentee should not be appointed (33-20-2).

See 33-20-1 for the grounds upon which a receiver may be appointed. See also 33-20-8 for the statutory provisions regarding the appointment of a conservator for a military absentee.

DIVISION OF REAL ESTATE

Application for division. An application, in writing, for the division of real estate may be made to the probate court which granted administration on the estate of the person dying intestate. The application must be made by all the parties entitled to the real estate and must set forth and particularly describe each parcel of real estate (33-3-1).

Time and notice of proceeding. Upon the filing of the application, a time must be appointed for proceeding and notice must be given to the parties in interest in such a manner as the probate court appoints (33-3-2).

Appointment of commissioners. The probate court must appoint three (3) discreet and disinterested persons, residing in any of the towns wherein the land to be divided lies, as commissioners to make partition of the land according to the decree of division of the probate court (33-3-3).

Report of commissioners. The commissioners must make a report of all their proceedings to the probate court. The report must be passed upon by the court after notice, and, if finally established, it must be recorded in the records of land evidence in the several towns or cities where any of the lands lie (33-3-8).

Certificate of descent. ~~The probate court which granted administration of the estate of any decedent owning real estate shall issue a certificate of descent to devisees or heirs at law, as provided by section 33-9-29, within one month of acceptance by the court of the final account of administration or affidavit of complete administration~~ **Prior to acceptance by the probate court of the final account or affidavit of complete administration, the fiduciary shall submit to the probate court an affidavit of no real property or a duly recorded certificate of descent which shall contain the name and place of residence of each person to whom the real property is distributed or a particular description of the estate distributed to each person. The certificate of descent shall be signed by the fiduciary** (33-3-14). **(2006)**

DOWER AND JOINTURE

Recording of judgment. When final judgment for dower has been rendered in favor of a plaintiff in any action of dower, the judgment of the court, confirming the report of the commissioners, must be duly recorded in the office of the town clerk of the town in which the premises lie. Before the issuance of execution, the plaintiff must produce to the court, or clerk, if the court is adjourned, a certificate that the judgment of the court has been so recorded (33-4-13).

Deposit of security. Security for the payment of the annual value of the dower so set off, or of the fixed substituted rental, must be deposited with the clerk of the court (33-4-18).

DOWER AND CURTESY

Dower and curtesy abolished. The right of a widow to dower and the right of a husband to curtesy have been abolished (33-25-1). A life estate descends and passes to the spouse (33-25-2).

Recording of waiver. A surviving spouse may, within six (6) months after the date of the first publication of the qualifications of the fiduciary of the estate of the deceased spouse, file in the probate court a written statement waiving and renouncing a devise and bequest and claiming his or her life estate in the real estate of the decedent. If the real estate is located in any city or town other than that in which the will of the decedent is probated, the waiver and claim must also have been filed in the records of deeds in each city and town where such real estate is located (33-25-4).

Setting off and allowance of real estate (form #63). A copy of the decree of the Probate Court, duly certified by the probate clerk, setting off and allowing to the widow or husband in fee real estate of the intestate must be recorded in the records of land evidence in the city or town in which the land is situated (33-1-6).

TRUST COMPANIES

Fiduciary. Before a trust company can act as executor, administrator, guardian, custodian or conservator, its acceptance in writing of the appointment and trust must be filed and recorded in the probate court (19-3.1-3).

Bond. Trust companies must give bond in the same manner as provided by law in the case of individuals so appointed. Trust companies are not required to give surety on the bond unless some person pecuniarily interested in the estate files a written request in the probate court that bond with surety be given (19-3.1-4).

Before a foreign bank or trust company may be appointed by a probate court of this state as administrator, administrator de bonis non, administrator with the will annexed, guardian of estates or conservator, or as executor of any will in which it is named as executor, it must

execute and file in the office of the state director of business regulation a written instrument appointing the state director of business regulation as its resident agent for the service of all legal process relating to its appointment by the probate court (19-3.1-6). The state director of business regulation must notify the probate court of the execution and filing of the written instrument.

JUDICIAL REVIEW OF PROBATE COURT ORDERS AND DECISIONS

Filing of claim of appeal (form #10). Any person aggrieved by an order or decree of a probate court may, unless provisions to the contrary are made, appeal to the Superior Court for the county in which the probate court is established. The following procedure must be taken:

First. Within twenty (20) days after the execution of the order or decree by the probate judge, the appellant must file in the office of the probate clerk, a claim of appeal to the Superior Court. He must also file a request for a certified copy of the claim and the record of the proceedings appealed from. He must pay the clerk his fees therefor.

Second. Within thirty (30) days after the entry of the order or decree, the appellant must file in the Superior Court a certified copy of the claim and record of the proceedings as well as his reasons of appeal (33-23-1)

The appellant must file with the probate clerk an affidavit in proof of the filing and docketing of the probate appeal pursuant to the above-stated deadlines.

The "record of the proceedings appealed from" shall include copies of documents filed with the probate court **and full exhibits entered into evidence by the probate court as** certified by the probate clerk which are relevant to the claim of appeal and the transcript (if any) of **all relevant evidentiary** probate court proceedings (33-23-1) **(2007)**

The fee charged by the probate clerk for the record of proceedings shall include the reasonable copying costs, transcription costs, (if any), and the costs of transmitting the record. The probate clerk need not transmit the record unless and until all costs are paid in full (33-23-1).

Whenever a transcript or the production of a transcript is requested or referred to in the probate law, the moving party is responsible for the production of and payment for the transcript. Neither the probate court nor the probate clerk is required to make arrangements for or advance the costs of the transcript (33-23-1).

Failure to enter appeal claimed. If the appellant fails to **file** his or her **reasons of** appeal in the superior court within the time allowed by law, the probate court **must**, upon petition of any person interested, and upon such notice to the appellant as the court orders, affirm the order or decree appealed from and further proceed as if no claim of appeal had been filed (33-23-11). **(2007)**

Failure to perfect or prosecute appeal. If an appellant, having timely filed his reasons of appeal, fails to perfect his or her appeal **by filing in the superior court all relevant filings, exhibits and transcripts constituting the certified record of the probate court proceedings** within the time allowed by law, the superior court, on motion of any person interested, **must** affirm the decree or order appealed from or make such other order or decree as justice may require (33-23-12). **(2007)**

Discontinuance of appeal. The party taking an appeal from an order or decree of a probate court may, at any time, discontinue the appeal. Upon presentation to the probate court of a certificate of the discontinuance from the clerk of the superior court having jurisdiction of the appeal, the appeal must then be entered on the record of the probate court as discontinued (33-23-13).

Transmission of final judgment to probate court. A copy of the final judgment entered by the Superior Court must be certified and transmitted by the clerk of the Superior Court, without fee, to the probate court appealed from (33-23-19).

SMALL ESTATES

If a Rhode Island resident dies leaving an estate consisting entirely of personal property the value of which does not exceed $15,000 (exclusive of any tangible personal property) and no petition for letters testamentary or letters of administration has been filed with the probate court of the city or town in which the decedent resided, the surviving spouse, child, grandchild, parent, brother, sister, niece, nephew, aunt, uncle, or any interested party; if of full age and legal capacity and a resident of the state may, after 30 days from the death of the decedent, file a statement with the probate court. Upon a form prescribed by the court, the statement, verified by oath or affirmation, must contain the following information: (1999)

a) name and residential address of the affiant;

b) name, residence and date of death of the deceased;

c) relationship of affiant to the deceased;

d) schedule showing every asset known to the affiant titled solely in the decedent's name and all assets known or believed to be titled in the decedent's name as of the decedent's date of death and the estimated value of each asset; (1999)

e) statement that the affiant has undertaken to act as voluntary administrator of the estate of the deceased;

f) names and addresses known to the affiant of the persons who would take under the provisions of 33-1-10 in the case of intestacy (33-24-1). (1999)

If the decedent leaves a will naming a person as executor, then the executor or alternate may file such a statement, which must include (in addition to the above mentioned information) the names and addresses known to the affiant of the persons who would take under the provisions of the will. The original of the will must be filed with the above statement and if the executor resides outside the state, he shall appoint a resident agent to represent him in the state (33-24-2). (1998)

Upon presentation of the statement, accompanied by a death certificate of the deceased and the payment of a $30 fee, the probate clerk must file these documents as a part of the permanent record of the court (33-24-1). (1998)

Upon the payment of $5.00, the probate clerk must, if no other probate proceeding for administration of the estate is pending in the court, issue a certification of appointment of voluntary administrator, but only after the certification has been reviewed by the judge of the probate court (33-24-1). (2005)

No hearing in the probate court shall be required as a condition for the issuance of the certification by the probate clerk; provided, however, that the probate judge may require a hearing in order to determine whether the certification should be issued (33-24-1). (2005)

See 33-7-5 of the General Laws regarding the delivery of a will into probate court by a fiduciary nominated in the will when there are no assets of the decedent subject to probate.

FEES*

Fees enumerated (form #50). The fees in probate court must be as follows:

--Petition for the appointment of a receiver, custodian, administrator, guardian or conservator.....…….....1.0% of the personal property of the decedent or ward, but not less than $30.00 nor more than $1500.00.

--Petition for the probate of and recording of a will.....……...1.0% of the personal property of the decedent or ward, but not less than $30.00 nor more than $1500.00.

--Petition for the change of name.....$30.00

--Petition for adoption....….....$30.00

--Petition for a foreign administrator, executor, or guardian to transfer or sell real or personal estate.....….....1.0% of the personal property of the decedent, or ward located in Rhode Island, but not less than $30.00 nor more than $1500.00.

---

*See also on page 2.7 of this Handbook the additional assessments imposed under 42-8.1-20 of the Historical Records Trust Act.

These fees shall be in lieu of all subsequent filing and recording fees in the same proceedings, except as provided by this section. The fees must be paid before the petition is filed and must be based upon estimates submitted by the petitioner or someone in his behalf. The fees are subject to revision whenever it appears that the estimates were incorrect. Upon such a revision, a further payment or rebate must be made.

In the event that the appointment of a receiver or custodian is necessary pending the appointment of an administrator, guardian or conservator, or the probate of or recording of a will, the fee paid for the petition must be applied on the amount to be paid upon the filing of a petition for the appointment of such administrator, guardian or conservator, or for the probate of or recording such will.

Also, the following fees shall be charged:

--Petition to file a claim out of time.....$30.00

--Petition for the removal of an executor, administrator, guardian, conservator or other fiduciary.....…….....$30.00

--Petition for appointment of a successor guardian under the uniform gifts to minors act.....…….....$30.00

--Petition to file a will with no probate.....$30.00

--Affidavit of complete administration.....$30.00

--For every certificate of appointment.....$ 5.00 (33-22-21)

--Petition to remove or fill a vacancy of a trustee of any trust established under a will, or the termination of such trust.....…….$30.00

--Petition for tax minimization or estate planning.....……..$30.00

Whenever any probate fees are paid, the probate clerk must issue a written receipt to the person paying the fee. The clerk must also note, whenever possible, the time and date on the receipt of any hearing on the matter; or, as soon as is practicable after the filing of the matter, the probate clerk must provide written notice of the time and date of the hearing directly to the person filing the matter. The clerk of the probate court shall charge $1.50 per page and $3.00 to certify any probate documents on file with the probate court (33-22-21).

Veterans' guardianships. No probate fees shall be charged in any estate where the appointment of a guardian is for the purpose of receiving benefits of the laws administered by the United States veterans administration (33-22-22).

Division of fees. The fees provided for in 33-22-21 must insure, 1/2 thereof to and for the use of the probate court, and 1/2 thereof to and for the use of the probate clerk, unless provision is made to the contrary as hereinafter provided (33-22-23).

Fixed salaries. Any city council, or any town at the annual town meeting, may provide for the payment into the city or town treasury of all fees allowed the probate court or probate clerk, or both, and may allow in lieu of a salary for the town council or probate judge or probate clerk for their services (33-22-25).

CHAPTER 5

VITAL RECORDS

Local registrars. The city and town clerks are the local registrars of vital records for the purpose of recording births, deaths, and marriages, unless the city or town council appoints some other person for this purpose (23-3-6).

GENERAL DUTIES

The local registrar, with respect to his respective city or town, must:

(1) Administer and enforce the provisions of Chapter 3 of Title 23 of the Rhode Island General Laws and instructions, rules and regulations issued thereunder.

(2) Require that certificates be completed and filed in accordance with the provisions of that chapter and the rules and regulations issued thereunder

(3) Transmit on or before the 10th day of each month the certificates, reports, or other returns filed with him for the preceding month to the state registrar of vital records or more frequently when directed to do so by the state registrar. (See also transmittal procedure section).

(4) Maintain such records, make such reports, and perform such other duties as may be required by the state registrar of vital records.

~~(5) Transmit on or before the 10th day of each month, a list of the deaths filed with him for the preceding month, to his respective local board of canvassers~~ **(2008)**

(5) Flag birth certificates of missing children and perform all other acts and duties required to be performed pursuant to chapter 42-28.8 (23-3-7).

Forms. No forms other than those supplied by the state registrar shall be used for vital records. These forms, records and reports are the property of the state and must be surrendered to the state registrar or his representative upon demand (4.2).

The state registrar shall prepare and issue instructions concerning the use of forms and supplies (4.3).

Each certificate, report and form required to be filed under the statutory provisions of law must have entered upon its face the date of registration duly attested (23-3-9).

NOTE: Numerical references in this chapter of the handbook refer both to the General Laws and to the rules and regulations concerning vital records as established by the State Department of Health (R23-3-VS). (See also "Vital Records Procedures Manual" - Rev. 3/24/04).

Every person required to sign any certificate, report or form must type or print his name and address in the designated place. On death certificates, the cause of death must be typed or printed in the space provided by the physician filling out the certificate (23-3-9).

Acceptance of certificates (6.0). The state registrar and each local registrar must examine any certificates presented to them for registration to determine that they have been completed on authorized forms and that they are in accordance with law and any rules, regulations and instructions of the state registrar (6.1).

The state and local registrar shall only accept a certificate or such other forms for registration if:

a) It is completed preferably by typewriter with black ribbon, or by hand, in legible printing with black ink;

b) It contains the printed or typed name and the original signature of the certifier on a birth, death, or fetal death record, or of the officiant and witnesses on a marriage record.

c) The cause of death is printed or typed on the death record;

d) It is the original certificate on the authorized form;

e) It contains proper and consistent data;

f) It contains no corrections made with correction fluid or correction tape;

g) It includes all the information requested on the form or satisfactorily accounts for any omission; and

h) It is satisfactorily completed in accordance with the Act and the rules and regulations herein (6.2).

When any certificate, presented to the state or local registrar for registration, is deemed to be unacceptable for any of the reasons stated in section 6.2 above, it shall be the duty of the registrar to notify the person responsible for filing or completing the certificate. The registrar may require the responsible person either to supply complete and correct information to be entered on the certificate or to complete and file a new certificate which shall not be marked "copy" or "duplicate". (6.3).

Registration procedure (7.0). When the state or local registrar determines that a certificate or other form, which is filed for registration, is acceptable for registration, the registrar shall register the certificate or other form by entering on its face the date of registration and his or her signature (7.1).

The state registrar and each local registrar must number vital records consecutively. The numbering must be carried out separately for each category of vital event, beginning with the number 1 on the first certificate of each vital event, registered for each calendar year (7.1.1).

Each local registrar must retain copies of all certificates registered as required above. The copies must be maintained in numerical or alphabetical order for each vital event and must be preserved as permanent local vital records in a safe storage area (7.1.2).

Transmittal procedure (8.0). Each local registrar shall, on or before the 24th day of each month, transmit to the state registrar all original certificates filed with the city or town for vital events which have occurred during or prior to the first 15 days of the month (8.1).

On or before the 9th day of each month, each local registrar shall transmit to the state registrar all original certificates filed with the city or town for vital events which have occurred during or prior to the 16th day through the last day of the prior month (8.2).

Transmittal forms (VS 69 Rev. 3/04) provided by the state registrar must be completed and signed by the local registrar and must accompany each transmittal (8.3).

If no certificate of birth, death, fetal death, or marriage was filed in any month, the local registrar must, on or before the 9th day of the following month, transmit the report to the state registrar on forms provided for that purpose (8.4).

Void certificates (9.0). When the state registrar determines that any vital record was registered improperly, such as through fraud, misrepresentation or duplication, the registrar must give written notice to the registrant or informant of his intention to void the certificate. Until the matter is resolved, neither the state registrar nor the local registrar shall issue copies of the certificate.

DUTIES OF STATE REGISTRAR

The state department of health has general supervision over the registration of births, marriages, and deaths in Rhode Island. Within the department the state registrar of vital records:

(1) administers and enforces the provisions of chapter 3 of title 23 of the General Laws of Rhode Island and the rules and regulations issued thereunder; issues instructions for the efficient administration of the statewide systems of vital records;

(2) directs and supervises the statewide system of vital records;

(3) directs, supervises and controls the activities of local registrars (city and town clerks) related to the operation of the vital records system;

(4) prescribes and distributes required forms;

(5) prepares and publishes annual reports of vital records of Rhode Island;

~~(6) notifies~~ **electronically transmits to** the Office of the Secretary of State ~~and the appropriate local canvassing authority of the receipt of a death certificate,~~ **on a monthly basis, a list of reported deaths of a person or persons** ~~reporting the death of a person~~ eighteen (18) years of age or older, and maintains a list of those deceased persons; **(2008)**

(7) provides a copy on alkaline paper or an electronic record of each certificate of birth, death and marriage to the city or town clerk before the 10th day of the month after the certificate is received by the division of vital records as authorized by regulations. (2000)

(8) flags birth certificates of missing children and provides local registrars with any information received from the Missing Children's Information Center.

(9) direct, supervise, and control the transition from a paper-based system to an electronic system. (2000)

The state registrar may delegate such functions and duties to local registrars as is deemed necessary or expedient (23-3-5).

Vital records to state archives. At the end of each calendar year, the state registrar must permanently transfer to the state archives records of:

(1) births and marriages which have occurred 100 years or more from the date of transfer; and

(2) deaths which have occurred 50 years or more from the date of transfer (23-3-5.1).

BIRTH CERTIFICATES

Filing. A birth certificate (VS 1 – Part 1 Rev. 6/00) must be filed with the state registrar of vital records or as otherwise directed by the state registrar within four (4) days after the birth. The certificate must have been completed and filed in accordance with the provisions of law; provided, that when a birth occurs on a moving conveyance a birth certificate must be filed in the city or town in which the child was first removed from the conveyance. Either of the parents must sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within 4 days after the birth. Neither the state registrar, nor any local official shall decline to register and/or issue any birth certificate or certified copy thereof on the grounds that medical or health information collected for statistical purposes has not been supplied (23-3-10). (2000)

In an Institution. When a birth occurs in an institution, the person in charge of the institution or his designated representative must obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the state registrar of vital records or as otherwise directed by the state registrar. The physician in attendance must certify to the facts of birth and provide the medical information required by the certificate within three (3) days after the birth (23-3-10). Each director or administrator of an institution shall on or before the tenth (10th) day of each month file a report with the state registrar, listing births occurring in the institution during the previous month (10.2.1). (2000)

Outside an Institution. When a birth occurs outside an institution, the certificate must be prepared and filed by one (1) of the following in the indicated order of priority: (1) The physician in attendance at or immediately after the birth, or in the absence of such a person, (2) Any other person in attendance at or immediately after the birth, or in the absence of such a person, (3) The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred (23-3-10).

Section 23-3-10(d)(3) dealing with birth registrations and children born out of wedlock was repealed in 1991 by Chapter 273 of the 1991 public laws.

Names on Birth Certificates. The name of the father and the surname of the child to be recorded on the birth certificate shall be determined as follows:(10.4).

If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined

otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered (10.4.1).

If the mother was not married, either at the time of conception or birth, the name of the father shall be entered on the certificate only if paternity has been established by affidavit of both parents or by determination of a court of competent jurisdiction (10.4.2).

If the mother was not married either at the time of conception or birth and paternity has not been established by affidavit of both parents or by determination of a court of competent jurisdiction, the name of the father shall not be entered on the certificate and the child shall bear the mother's surname (10.4.3).

Social security numbers. The state registrar of vital records must maintain a record of the social security number of each parent whose name is recorded on any certificate of birth established or amended under chapter 23-3 of the General Laws on or after September 1, 1996, unless the registrar finds good cause for not requiring the number (23-3-10.1).

Certificates of birth resulting in stillbirth. The state registrar of vital records must establish a certificate of birth resulting in stillbirth for fetal deaths, defined as the naturally occurring intrauterine death of a fetus that occurs after the 20th week of pregnancy. The certificate can be issued only at the request of either individual listed as mother or father on the report of fetal death.

The certificate of birth resulting in stillbirth must be filed with the state registrar of vital records within 10 days after the delivery. When a birth resulting in stillbirth occurring in the state has not been registered within one year after the date of delivery, a certificate marked "delayed" may be filed and registered in accordance with regulations of the department of health (23-3-10.2). (2007)

Foundling registration (infants of unknown parentage. Whoever assumes custody of a living infant of unknown parentage must report the required facts within four (4) days to the local registrar of the city or town in which the child was found (23-3-11).

The report shall be made on a certificate of live birth that shall be plainly marked "Foundling Registration" in the top margin and shall include the following information:

a) The name given to the child by the custodian;

b) The place where the child was found, which shall be entered as the place of birth;

c) The date of birth, which shall be determined by approximation;

d) The sex of the child; and

e) Other data as required by the state registrar (11.1.1).

Parentage data shall be left blank (11.1.2).

The custodian of the child shall sign the certificate in the space indicated for the certifier (11.1.3).

The name and address of the person(s) or institution with whom said child has been placed for care, the date of the finding of said child, the approximate age of the child, and the race of the child, if determined by the custodian, shall be listed on the reverse side of the certificate (11.1.4).

Such reports shall be transmitted by local registrars to the state registrar in accordance with the schedule prescribed herein for regular certificates of birth (11.2).

The foundling registration report constitutes the certificate of birth for the infant. If the child is identified and a certificate of birth is found or obtained, the foundling registration report must be sealed and filed. It may be opened only by order of a court of competent jurisdiction or as provided by regulation (23-3-11).

New Certificates of Birth Following Adoption, Legitimation, and Paternity Determinations (12.0).

12.1 The state registrar shall establish a new certificate of birth for a person born in this state upon receiving one of the following:

a) An adoption report as provided in section 23-3-14 or a certified copy of a decree of adoption from a court of competent jurisdiction in another state or country, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established if the court decreeing the adoption, the adoptive parents, or parents, the adopted person requests that such certificate shall not be established; or

b) A request that a new certificate be established and evidence of legitimation as required in section 12.2 herein; or

c) A request that a new certificate be established and a certified copy of an order from a court of competent jurisdiction determining the paternity of such a person; or

d) A request that a new certificate be established and a sworn acknowledgment of paternity made by both parents of a registrant born out of wedlock, as required in section 12.2 herein.

12.2 Absent a court determination of paternity, the following evidence shall be required for legitimation or paternity acknowledgment of a person born in this state:

a) A sworn acknowledgement by the mother that she was free to marry both at the time of conception and at the time of the birth of the registrant; and

b) A sworn acknowledgment of paternity made by the mother listed on the registrant's original certificate of birth and by the man to be named as father, certifying that they are the natural parents of the registrant; and

c) In addition, for a legitimation, a certified copy of a certificate of marriage showing that the aforementioned natural parents of the registrant have been married in accordance with the statutes of this state or of another state or country, or a court order recognizing such marriage.

12.3 Absent a court determination of paternity, the state registrar shall not establish a new certificate of birth when application to do so is made by the mother and a putative father if the name of a man other than the putative father is listed as the father on the original certificate

of birth or if the mother was not free to marry both at the time of conception and at the time of birth of the registrant.

12.4 New certificates of birth subsequent to adoption, legitimation, or paternity shall be established in conformance with the following procedures:

12.4.1 Information required to locate the existing certificate and to complete the new certificate shall be provided on such forms as the state registrar may require.

12.4.2 The new certificate of birth shall be the certificate in use at the time the birth occurred. If such certificate is not available, the certificate in current use shall be used.

12.4.3 The parents of a child who has been legitimated may choose a new given name and/or surname for the child; such name(s) shall be entered as the name(s) of the registrant on the new certificate of birth.

12.4.4 Pursuant to section 23-3-21(d), following a sworn acknowledgment of paternity where the parents have not married each other after the birth of the registrant, neither the given name nor the surname of the registrant shall be changed unless an order by a court of competent jurisdiction or a legal change of name is presented to the state registrar.

12.4.5 The new certificate of birth shall include the following items and such other information as required to complete the certificate:

a) The actual place and date of birth as transcribed from the original certificate;

b) The names and personal information of the adoptive parents or of the natural parents, as appropriate;

c) The printed or typed name of the person in attendance at birth;

d) The state file number and local file number, if any, assigned to the original birth certificate;

e) The original filing date; and

f) The name of the person who has been adjudicated as being the father when a court of competent jurisdiction has determined the paternity (23-3-15(a)(2)).

12.4.6 If no certificate of birth is on file for the person for whom a new certificate is to be established, a delayed certificate of birth shall be filed with the state registrar, as provided in sections 23-3-12 or 23-3-13 of the Act and in the rules and regulations herein, before a new certificate of birth is established, except that when the date and place of birth and parentage have been established in the adoption proceedings in accordance with section 23-3-15, a delayed certificate shall not be required.

12.5 A new certificate of birth established following adoption, legitimation, or paternity shall be substituted for the original certificate, as follows:

12.5.1 The original certificate and the evidence of adoption, legitimation, or paternity shall be placed in a sealed file and shall not be subject to inspection except upon order of a court of competent jurisdiction.

12.5.2 All copies of the original certificate in the custody of local registrars in this state shall be forwarded to the state registrar provided that, where such copies are in the form of entries in permanent ledgers wherein removal of a single record is impossible or not feasible, the entries on such records shall be eradicated with indelible ink.

12.6 Upon receipt of a court order nullifying an adoption, legitimation, or paternity, the state registrar shall:

a) Remove the certificate created by the adoption, legitimation, or paternity from the division's files and place it and the court order in a sealed file. Such records shall not be subject to inspection except upon order of a court of competent jurisdiction;

b) Restore the original certificate of birth to the division's files;

c) Notify local registrars of the annulment;

d) Take possession of and void local copies of the new certificate which was created following adoption, legitimation, or paternity; except that where such local copy was entered in a permanent ledger wherein removal of a single record is impossible or not feasible, the local registrar shall eradicate the local copy with indelible ink; and

e) Forward a copy of the original certificate to the local registrar to be used as the local copy thereafter.

When a new certificate of birth is established following an adoption or legitimation in this state, and when no record of the original birth is on file at the city or town of occurrence, the state registrar of vital records shall cause a copy to be filed with the registrar of births in the city or town where the child was born and the city or town of residence of the parents indicated on the new certificate, if that residence is within the state of Rhode Island. (23-3-15f).

Adoptee vital records file. The Division of Vital Records must establish, maintain and operate the adoptee vital records file. Beginning July 1, 2012, upon written application by an adult adoptee born in the State of Rhode Island, the division must issue a non-certified copy of the unaltered , original certificate of birth of the adoptee. The division must make available, upon request, to each birth parent of an adoptee named on the original birth certificate a contact preference form on which a preference regarding contact by an adoptee may be stated. The contact preference form must be returned to the division. Upon request, the division must also provide the birth parent with an updated medical history form, which may be completed and returned to the Passive Voluntary Adoption Mutual Consent Registry (23-3-15g). (2011)

Certificates of foreign birth. The state registrar shall, upon request, prepare and register a certificate in this state for a person born in a foreign country who is not a citizen of the United States and who was adopted through a court of competent jurisdiction in this state. The certificate shall be established upon receipt of a report of adoption from the court decreeing the adoption, proof of the date and place of the child's birth, and a request from the court, the adopting parents, or the adopted person if eighteen (18) years of age or over that such a certificate be prepared. Such certificate shall be labeled "Certificate of Foreign Birth" and shall show the actual country of birth. After registration of the birth certificate in the new name of the adopted person, the state registrar shall seal and file the report of adoption which shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation.

A child who has automatically acquired United States citizenship following a foreign adoption and possesses a certificate of citizenship in accordance with the "Child Citizenship Act" shall be exempt from the provisions of this chapter (23-3) which require judicial procedures and reports to acquire a new birth certificate. The state registrar of vital records shall, upon written request, prepare a "Certificate of Foreign Birth" for a child who was born in a foreign country, adopted by a United States citizen and has automatically acquired citizenship in accordance with the "Child Citizenship Act" upon the production of the following documentations:

(1) certificate of citizenship;
(2) foreign birth certificate;
(3) original documents certified by the United States Embassy abroad;
(4) permanent United States identification card; and
(5) social security card. (23-3-15.1) (2006)

If the child was born in a foreign country but was a citizen of the United States at the time of birth, the state registrar shall not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents of the procedures for obtaining a revised birth certificate for their child through the U. S. department of state (23-3-15e).

Missing children. Whenever the state registrar receives information from the Missing Children's Information Center that a person born in this state is missing, the state registrar must transmit the information to the local registrar. Both the state registrar and the local registrars must flag the birth certificate records of the missing children in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested, the registrars shall be alerted to the fact that the certificate is that of a missing person (42-28.8-8).

Whenever the state registrar receives information that a missing child has been recovered, the state registrar must remove the flag from the person's birth certificate record and must notify any other previously notified local registrar to remove the flag from the local records (42-28.8-8).

In response to any inquiry, a local registrar or other employees must not provide a copy of a birth certificate or information concerning the birth record of any person whose record is flagged (42-28.8-8b).

MARRIAGE LICENSES (See also "General Marriage Requirements" - Form VS 134 Rev. 12/03)

Place of issuance. Persons intending to be joined together in marriage in Rhode Island must first obtain a marriage license (VS 4 Rev. 1/88) from: (1) the clerk of the city or town in which the female party to the proposed marriage resides; or (2) the clerk of the city or town in which the male party resides, if the female party is a nonresident of the state; or (3) the clerk of the city or town where the marriage is to be performed, if both parties are nonresidents of the state. In (1) and (2) above the parties can be married anywhere in Rhode Island, while in (3) the parties must be married in the city or town where the license was issued (15-2-1). (See also "Instructions for Completing the License and Certificate of Marriage" - Form VS 170 1/88).

Statewide electronic marriage license system. Notwithstanding the provisions of 15-2-1, at such time as the director of health adopts and implements a statewide electronic marriage license issuance and record registration system, the license may be obtained from the clerk in any city or town (15-2-1.1). (2004)

Requirements before issuance of license. Applicants for a marriage license must provide all the information requested (VS 4A Rev. 6/98) to complete the marriage license, and shall attest to the truth of the information by signing the license in the presence of the local registrar or

an assistant (15-2-7) (26.3). Furthermore, applicants must submit the following supporting documentation:

1. Identification. A valid form of identification providing date of birth for each applicant, preferably a certified copy of a birth certificate (26.3).

2. Parental consent for minors. The consent of the parent(s) or guardian must be obtained in the presence of the local registrar or his designee for all females between the ages of sixteen (16) and eighteen (18) years. Proof must be submitted that the female has attained the age of sixteen (16) (15-2-11) (See instructions on reverse side of minor's permit - Form VS 10 Rev. 5/88).

If a female between the ages of sixteen (16) and eighteen (18) years resides in this state, but has no parent or guardian in this state competent to act, written consent may be given by the director of public welfare of the city or town in which the minor female resides. The consent must be given in the presence of the town or city clerk or any clerk employed in that office (15-2-11).

3. Consent of family court. In addition to the parental or guardian consent, the local registrar may not issue a marriage license to a male under the age of eighteen (18) years or a female under the age of sixteen (16) years unless he is directed in writing to issue the license by the family court. The town or city clerk must send two (2) certified copies of the information provided for in sections 15-2-1 and 15-2-7 to 15-2-9.1 inclusive to the Family Court. The city or town clerk will then be notified by the Family Court of its determination (15-2-11). (2004)

4. Previous marriage. A marriage license may not be issued to a person whose last previous marriage was terminated by divorce or death unless the applicant presents an authenticated (certified) copy of the divorce decree or of a death certificate, to the town or city clerk (15-2-1) (26.3(d).

Fetal alcohol syndrome. With each marriage license, the city or town clerk must provide information describing the causes and effects of fetal alcohol syndrome (15-2-3.1). (2004)

Disease information packet. ***{ The director of health must prepare and submit to each city and town clerk's office in the state a packet containing all appropriate information relating to any disease, including but not limited to, sexually-transmitted diseases or general health issue, for distribution to all persons applying for a marriage license (23-1-36.1). Repealed }*** **(2009)**

Expiration date of license. A marriage license expires three (3) months after the date of issuance. If the license is unused at the expiration of three (3) months, the party or parties having possession of the license must return it immediately to the town or city clerk from whom it was obtained (15-2-8).

Recording of license information. The town or city clerks must record, in separate books to be kept by them for that purpose, the license information furnished to them and subscribed to according to the provisions of law (15-2-12).

Return of marriage license. No official shall perform the marriage ceremony until the persons to be joined in marriage have presented to the official a valid marriage license, signed by both of them and by the local registrar of the place of issuance (15-3-7) (27.1). The marriage ceremony must be in the presence of at least 2 witnesses of legal age in addition to the person officiating (15-3-8).

28.1 After a marriage has been performed, the officiant shall provide for the completion of the following items on the marriage license:

a) The signatures of the two (2) witnesses, with names printed or typed;

b) The date of the marriage;

c) The city or town where the marriage was performed;

d) The type of ceremony;

e) The title, the name of the court, or the denomination of the officiant, as appropriate;

f) The address of the officiant; and

g) The signature of the officiant, with his name printed or typed, attesting to the facts of the marriage.

All items must be completed legibly by typewriter or in black ink; all signatures must also be in black ink.

28.2 The "License and Certificate of Marriage" form must be endorsed by the officiant, who certifies that the persons have been joined in marriage, and filed within seventy-two hours following the date of the marriage with the clerk in the town or city from which the license was issued (15-3-12). The local registrar (town or city clerk) to whom the signed marriage license was returned must carefully file and preserve the same (15-3-13). (2004)

Invalid marriages. If any marriage which occurred in Rhode Island is declared invalid as the result of a court decision, the court shall order the state registrar to mark "invalid" the original marriage record on file at the Division of Vital Records and to note the invalidity of the marriage on all other files or references to the marriage (15-3-17). Each city or town clerk who has that marriage record on file will be notified by the state registrar. All local records of the marriage must also be marked "invalid."

CIVIL UNIONS

Definition. "Civil union" means a legal union between two individuals of the same sex established pursuant to this section (15-3.1-1).

Eligibility. Both persons must be at least 18 years of age; of the same sex; not a party to another civil union or married; not in a family relationship within the degrees stated in sections 15-1-1 or 15-1-2; and mentally competent at the time of the civil union (15-3.1-2).

License requirements. A license must be obtained from the clerk of the city or town in which one of the parties resides or, if both are nonresidents, from the city or town in which the civil union is to be performed.

If a party to a civil union has been previously married or a party in a civil union, a certified copy of a divorce decree or civil union dissolution must be presented to the city or town clerk (15-3.1-3).

<u>Expiration date of license.</u> The civil union license expires 3 months after issuance, and if unused at the expiration of 3 months must be returned immediately to the issuing city or town clerk(15-3.1-3).

<u>Recording of license information.</u> The city or town clerk must record, in separate books to be kept by them for that purpose, the information furnished to them and subscribed to in this section (15-3.1-3). The city or town clerk must treat the civil union certificate as a vital record pursuant to chapter 23-3.

<u>Certification of civil unions.</u> Every certification of a civil union must be held in the presence of at least two (2) witnesses, and the civil union certification cannot be performed until the civil union license has been presented to the authorized person performing the civil union.

The officiant of the civil union must endorse the "License and Certificate of Civil Union" form certifying that the civil union is in accordance with the laws of the State of Rhode Island, complete all the information on the "License and Certificate of Civil Union" form and file it within 96 hours following the date of the civil union certification with the city or town clerk issuing the license. The city or town clerk must carefully file and preserve the returned form (15-3.1-4).

<u>Invalid marriages.</u> If the civil union is declared invalid as a result of a court decision, the court must order the state registrar of vital records to mark "invalid" the original civil union record on file at the Division of Vital Records, and to note the invalidity of the civil union on all other files or references (15-3.1-4).

<u>Civil union applications.</u> The Department of Health office of vital statistics must draft and distribute applications for civil unions to every city and town (15-3.1-10). (2011)

DEATH CERTIFICATES AND BURIAL PERMITS

<u>Death registration</u>. Within 7 calendar days after a death occurs in the state, the funeral director or his duly authorized agent or person acting as such must file a death certificate (VS 2 Rev. 1/88) with the state registrar of vital records or as otherwise directed by the state registrar. The certificate must be filed prior to the removal of the body from the state. If the place of death is unknown or if the death occurs in a moving conveyance, the certificate must be filed with the state registrar of vital records or as otherwise directed by the state registrar (23-3-16). (2000)

The funeral director must obtain the personal data from the next of kin or the best qualified person or source available. He must obtain the medical certification of cause of death from the person responsible therefor. The physician must complete and sign the medical certification within 48 hours after death (23-3-16).

When death occurs without medical attendance or when death was due to injury or violence or from a disease following an injury, the funeral director must obtain a completed and signed medical certification (VS 3 Rev. 1/88) from the medical examiner within 48 hours after the medical examiner takes charge of the case (23-3-16). (See 23-4 of the General Laws regarding inquiry by the Office of the State Medical Examiner).

Whenever a local registrar receives a death certificate which has been certified by a certifying physician or medical examiner and which states that the cause of death is "pending", such certificate shall be registered upon receipt and immediately sent to the state registrar. Immediately upon determining the cause of death, the medical examiner or certifying physician shall forward the cause of death to the state registrar on forms furnished for that purpose (18.4).

Fetal death registration. A fetal death certificate (VS 5 – Part 1 Rev. 2/92) for each fetal death which occurs in Rhode Island after a gestation period of 20 completed weeks or more must be filed with the state registrar of vital records or as otherwise directed by state registrar. It must be filed within 7 calendar days after the delivery and prior to removal of the fetus from the state (23-3-17). (2000)

If the place of fetal death is unknown or if the death occurs in a moving conveyance, a fetal death certificate must be filed with the state registrar of vital records or as otherwise directed by the state registrar (23-3-17). All other fetal deaths irrespective of the number of weeks of uterogestation, shall be reported directly to the state department of health within 7 calendar days after delivery. (2000)

The funeral director, his duly authorized agent or person acting as such, who first assumes custody of a fetus must file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after delivery must file the certificate of fetal death. He must obtain the personal data from the next of kin or the best qualified person or source available. He must obtain the medical certification of cause of death from the person responsible therefor. The medical certification must be completed and signed within 48 hours after delivery except when inquiry is required by the medical examiner (23-3-17).

When a fetal death occurs without medical attendance upon the mother at or after the delivery or when inquiry is required by the medical examiner, the medical certification must be completed and signed by the medical examiner within 48 hours after he takes charge of the case (23-3-17).

Burial Transit permits. Within 7 calendar days after the death or finding of the body, the funeral director, his duly authorized agent or person acting as such, who first assumes custody of the dead body or fetus, must prepare the permit (the bottom detachable section of Form 2, Form 3 or Form 5) prior to final disposition or removal of the body or fetus from the state. The permit must be signed by the funeral director and by the certifying physician. If a body brought into Rhode Island from another state for burial is accompanied by a burial-transit permit issued according to the laws of that state, no additional permit is needed in Rhode Island (23-3-18).

A burial-transit permit (VS 5 – Part 2 Rev. 2/92) must be completed before a dead body can be cremated, buried, or removed from the state (22.1).

On or before the 5th of each month, the sexton or other person in charge of the place of final disposition of a dead body shall transmit all burial-transit permits received during the prior month to the local registrar of the city or town in which the place of final disposition is located (22.6). Local registrars must retain burial-transit permits for not less than 5 years (22.7).

Disinterment permits. A permit for disinterment and reinterment (VS 29 Rev. 3/04) shall be required prior to disinterment of a dead body or fetus unless otherwise ordered by a court of competent jurisdiction. However, if the dead body or fetus is to be disintered and reinterred in the same cemetery, no permit shall be required provided that the sexton or other person in charge of the cemetery shall establish a record relative to the facts of disinterment and reinterment within the cemetery (23.1).

The permit shall be issued in quadruplicate to a licensed funeral director, embalmer, his duly authorized agent or person acting as such by the local registrar of the city or town in which the place of disinterment is located, upon proper application on a form provided by the state registrar (23-3-18, 23.2).

The funeral director shall retain one copy, shall file the second copy with the sexton or person in charge of the cemetery from which disinterment is to be made, shall use the third copy during transportation and give it to the sexton or person in charge of the cemetery of reinterment, and shall forward the fourth copy to the state registrar (23.3).

The sexton or other person in charge of the cemetery of disinterment shall establish a record of the facts of disinterment and reinterment and shall, prior to the 5th day of the following month, send the second copy to the local registrar of the city or town in which the cemetery of disinterment is located (23.4).

The sexton or other person in charge of the cemetery of reinterment shall establish a record of the facts of disinterment and reinterment and shall, prior to the 5th day of the following month, send the third copy to the local registrar of the city or town in which the cemetery of reinterment is located (23.5).

Cremation certificates. No body shall be cremated within 24 hours after death unless death was due to a contagious or infectious disease. The body cannot be received or cremated by any corporation authorized to cremate bodies until a burial permit and a cremation certificate issued by the Rhode Island Office of State Medical Examiners, have been received. The cremation certificate issued to the funeral director by the medical examiner, in duplicate, must accompany the body to the crematory. The crematory must retain the duplicate copy and mail the original to the state office of vital records (23-3-18).

DELAYED REGISTRATION OF CERTIFICATES (30.0)

30.1 All delayed certificates shall be filed directly with the state registrar on forms authorized for each vital event and shall be clearly marked "delayed".

30.2 Certificates shall be accepted for delayed registration only if:

a) A search by the division reveals that no certificate for the event has been previously registered;

b) The evidence as required in section 30.3 herein, has been submitted and found satisfactory to the state registrar;

c) Payment of the required statutory fee is made;

d) The certificate has been completed as required; and

e) The appropriate provisions of section 30.4 herein have been met.

30.3 Documentary evidence submitted in order to establish the date and place of the vital event and the name(s) of the registrant(s) shall be original records or certified copies thereof and shall include as a minimum:

a) Two (2) evidentiary documents, if the certificate is filed within seven (7) years of the occurrence of the vital event, one (1) of which must have been established within three (3) years of the date of the vital event.

b) Three (3) evidentiary documents if the record is filed seven (7) years or more after the occurrence of the vital event. Such documents shall be at least five (5) years old and at least one document must have been established within seven (7) years of the date of the vital event.

c) In either case, the evidence may consist of only one (1) affidavit from a person with knowledge of the vital event; this affidavit need not conform with the time limitations specified above.

d) In order to establish additional information to be completed on the delayed certificate, at least one (1) piece of documentary evidence, other than an affidavit from a person with knowledge of the vital event must be submitted.

30.4 A delayed certificate of a vital event may be filed with the state registrar by the person who was responsible for filing the certificate within the prescribed statutory and regulatory time requirements, with a statement indicating that the information was taken from his records; or

30.4.1 For delayed birth certificates:

a) The registrant, if of legal age; or

b) The parent or guardian.

30.4.2 For delayed death certificates:

a) The certifying physician; or

b) The medical examiner when the case was under his jurisdiction; or

c) The next of kin of the decedent; or

d) The legal representative of the next of kin or of the estate of the decedent.

30.4.3 For delayed marriage certificates:

a) Either married party; or

b) A legal representative of either married party in the event one of the parties is deceased or physically incapacitated.

30.5 The state registrar may require an explanation for the delayed filing from the person who requests the filing. The explanation shall be made a part of the delayed certificate.

30.6 If the state registrar determines after a review of evidentiary documentation that the evidence is unsatisfactory, the applicant shall be so notified.

Delayed registration of births. When the birth of a person born in this state or adopted by residents of this state has not been registered, the following facts, as a minimum, must be established to register a delayed birth certificate:

a) The full name of the person at the time of birth, except that a name established by adoption, legitimation, court determination of paternity, other court order, or sworn acknowledgment of paternity may be reflected on the delayed registration;

b) The date and place of birth; and

c) The name(s) of the parent(s), except that inclusion of the father's name shall be subject to section 10.4 of the rules and regulations (31.0).

In order to substantiate the alleged facts of birth, the certificate shall be registered subject to the evidentiary requirements in 30.3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the certificate (23-3-12).

When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar of vital records finds reason to question the validity or adequacy of the certificate or the documentary evidence, the state registrar of vital records shall not register the delayed certificate and shall advise the applicant of the reasons for this action (23-3-12).

Certificates of birth registered one (1) year or more after the date of occurrence shall be marked "delayed" and show on their face the date of the delayed registration (23-3-12).

If a delayed certificate of birth is rejected by the state registrar of vital records, a petition may be filed in the Superior Court for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered (23-3-13).

Delayed registration of marriages. When a marriage occurring in this state has not been registered, evidence must be submitted that the registrants complied with the statutory requirements for obtaining a marriage license (33.1).

In order to substantiate the alleged facts of marriage, the certificate shall be registered subject to the evidentiary requirements in 30.3. Certificates of marriage registered one (1) year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of delayed registration (23-3-12A). The state registrar sends a copy of the certificate to the local registrar in the city or town where the marriage ceremony was performed.

Delayed registration of deaths. When a death occurring in this state has not been registered, the certificate shall be registered subject to the evidentiary requirements in 30.3 in order to substantiate the alleged facts of death (23-3-12A).

If the medical certification of the cause of death is indicated on the delayed death certificate, it must be established by one of the following:

a) The certifying physician; or

b) The medical examiner; or

c) A physician who has reviewed the medical records of the decedent (32.1).

Certificates of death registered one (1) year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of delayed registration (23-3-12A). The state registrar sends a copy of the certificate to the local registrar in the city or town where the death occurred.

Late registration of certificates (34.0). A late registration of a certificate shall be completed on the authorized form in use at the time of the vital event (34.1).

Satisfactory documentation, substantiating the name of the person and the date and place of the occurrence of the vital event may be submitted to the state or local registrar in order to register a "late" certificate of a vital event (34.2).

The state or local registrar may require an explanation for the failure to file the certificate within the time prescribed by law and rules and regulations. He may also require that documentary evidence prescribed for delayed registration, in accordance with section 30.3, be

submitted for the late registration. Such explanation or evidence shall be made a part of the registration of the "late" certificate (34.3).

No certificate shall be accepted for "late" registration unless the evidentiary documentation is found satisfactory to the state or local registrar or unless so ordered by a court of competent jurisdiction. When a certificate is not accepted, the applicant shall be so notified (34.4).

CORRECTION AND AMENDMENT OF VITAL RECORDS

Requirements to amend (35.0). A vital record may be amended only by the state registrar (35.1). According to 35.3 of the rules and regulations, the following persons may apply to the state registrar for an amendment to vital records:

a) The person(s) originally responsible for filing the certificate; or

b) The person(s) required to provide or complete the information thereon; or

c) The registrant, his parent(s), guardian, next of kin, or legal representative.

Procedure to amend (36.0). An amendment to a vital record must be completed by one of the following methods:

a) Completing a blank item with the correct information and denoting the amendment with an asterisk; or

b) Drawing a single line through the incorrect information, typing the correct information directly above or next to it, and denoting the amendment with an asterisk; or

c) Preparing a new certificate with the corrected information, when corrected in accordance with section 12.0 of the rules and regulations (36.1).

A vital record which has been amended shall be marked "Amended" and the date of the amendment shall be entered on the vital record, except as provided in sections 12.0 and 37.0 of the rules and regulations (36.2).

Except as provided in section 12.0, when the name of the registrant on a birth certificate is changed by court order (VS 155A 1/98), pursuant to sections 23-3-21(a) and (c) of the Act, the birth certificate shall be marked "Amended" and the effective date of the order and the name of the court shall be entered on the birth certificate (36.3).

When the state registrar amends a vital record, a record of all evidentiary documentation supporting the amendment shall be preserved in a permanent cross-reference file in the division. The state registrar shall report all amendments to the local registrar(s) who have the records on file by transmitting a photocopy or other notification of the amendment, in order that the local registrar shall amend his copy of the vital record to agree with the original vital record on file at the division (36.4) (23-3-21e).

Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of such person or his parent, guardian, or legal representative, the state registrar of vital records shall amend the certificate of birth to reflect the new name (23-3-21c).

Upon request and receipt of a sworn acknowledgement of paternity of a child born out of wedlock signed by both parents, the state registrar of vital records shall amend a certificate of birth to show such paternity if paternity is not shown on the birth certificate. Upon request of the

parents, after approval by a court of competent jurisdiction, the surname of the child shall be changed on the certificate to that of the father. Such certificate shall not be marked "amended." (23-3-21d).

Birth certificates within one year of date of birth (37.0). Pursuant to section 23-3-21(b) of the General Laws, additions or minor corrections of the types indicated below made to birth certificates within one (1) year of the date of birth shall not be marked "Amended":

a) The addition of the given name of the registrant, when the given name is blank;

b) Corrections to the given name of the registrant on a birth certificate which reflect a minor correction in spelling, a variant form of the name, or clerical error;

c) Corrections of typographical or transcription errors, or clearly inconsistent information; and

d) Corrections or additions to items in the "Information for Medical and Health Use Only" section, except that race and marital status shall be corrected only in accordance with sections 35.0 and 36.0 of the rules and regulations (37.1).

The state registrar may require evidentiary documentation and/or an affidavit executed by the parent(s) listed on the birth certificate or the legal guardian of the registrant prior to additions or minor corrections to birth certificates within one (1) year of the date of birth (37.2).

Disclosure of vital records. It is unlawful for any person to permit inspection of or to disclose information contained in vital records, or to copy or issue a copy of all or part of any such record except as authorized by regulation (23-3-23).

The director of health may authorize under appropriate safeguards the disclosure of data contained in vital records for research purposes (23-3-23).

Information in vital records indicating that a birth occurred out of wedlock must not be disclosed except as provided by regulation or upon order of a court of competent jurisdiction (23-3-23).

Appeals from decisions of the custodians of permanent local records refusing to disclose information, or to permit inspection of or copying of records must be made to the state registrar of vital records (23-3-23).

Direct and tangible interest. Except for out-of-wedlock births, the state or local registrar must permit the disclosure of individual records of vital events which have occurred less than 100 years prior to disclosure only to persons demonstrating a direct and tangible interest in those records. This interest must be demonstrated by one or more of the following:

a) The registrant, a member of his immediate family, his guardian, or an authorized agent of these individuals; or

b) Attorneys-at-law, title examiners, or members of legally incorporated genealogical societies, in the conduct of their official duties; or

c) Persons requiring information for the determination or protection of a personal or property right; or

d) a person who has been granted a court order instructing the registrar to provide disclosure.

A direct and tangible interest shall not be demonstrated by firms, agencies or individuals requesting information to be used for commercial purposes (38.1).

The state or local registrars shall not require evidence of a direct and tangible interest in order to disclose information from vital records for vital events which have occurred 100 years or more prior to disclosure (38.4).

Research and administrative purposes. Except for out-of-wedlock births, the state director of health or his designee may authorize under appropriate safeguards disclosure of data contained in vital records for research and administrative purposes to one or more of the following:

a) The national office of vital statistics, provided both that the state shall be reimbursed for the cost of furnishing data and that such data shall be used only for statistical purposes by the national office, unless authorized to do otherwise by the state registrar; or

b) Federal, state, local and other public or private agencies in the conduct of their official duties; or

c) Persons or institutions engaged in research (38.2).

Out of wedlock births. Information in vital records indicating that a birth occurred out-of-wedlock may be disclosed only to one of the following:

a) The mother listed on the certificate; or

b) Persons or agencies who have the written approval of the mother listed on the certificate; or

c) The registrant, if over the age of 18; or

d) The natural father, if his name appears on the certificate; or

e) A person who presents proof of legal guardianship of a child born out of wedlock; or

f) A person who has been granted a court order instructing the division to issue a certified copy; or

g) Attorneys or adoption agencies who request certified copies for adoption proceedings; or

h) Attorneys who represent either the registrant, the mother listed on the certificate, or the father, if his name appears on the certificate (38.5).

Information indicating that a birth occurred out of wedlock may be disclosed to the following only, according to the indicated restrictions:

a) At the discretion of the state registrar, federal, state, county, or municipal agencies charged by law with the duty of detecting or prosecuting crime, preserving the internal security of the United States, or determining citizenship; or

b) With the approval of the Director, public health agencies which demonstrate that failure to disclose such information to them would be detrimental to the registrant or to the administration of a public health program (38.5.1).

CERTIFIED COPIES OF VITAL RECORDS

Reproduction of records. To preserve original documents, the state registrar of vital records is authorized to prepare typewritten, photographic, or other reproductions of original records and files in his office. Such reproductions when certified by him shall be accepted as the original record (23-3-22).

Certified copies. The custodian of permanent local records shall upon request (VS 82B, or VS 82D or VS 82-D-FD or VS 82M may be used for this purpose.) issue a certified copy of a certificate or record in his custody only in such form as shall be prescribed by the state director of health (23-3-24). Only authorized forms provided by the registrar may be used for preparing certified copies (40.1). All certified copies of vital records, other than wallet-size copies, must be issued on American Bank Note Paper (VS 81).

Certified copies – forms.

Birth

Certificate of Birth – VS 1BC (3/90)
Wallet-size Birth – VS 14
Wallet-size Birth without parents – VS 14A (5/03)
Wallet-size Birth with parents – VS 14B (5/03)

Death

Certificate of Death – short form – VS 7 (10/90)
Certificate of Death – long form – VS 8 (10/85)

Marriage

Record of Marriage with # of Marriages – VS 16
Record of Marriage – VS 16A (10/85)

Each certified copy issued shall show the following:

a) The date of registration at the place where the record was first registered;

b) The date of issuance of the copy;

c) The signature of the issuing registrar, or an authorized facsimile signature thereof;

d) The seal of the issuing office; and

e) A statement that the facts are true facts as recorded (40.2).

Certified copies issued from records marked "delayed" or "amended", or "court order" shall indicate that the record is delayed, amended, or the result of a court order and the effective date. Any copies issued of a "certificate of foreign birth" must indicate this fact and show the actual place of birth (23-3-24 and 40.3).

Certified copies of delayed certificates shall include an abstract of the evidence submitted to substantiate the registration of the record, when such evidence has been made part of the record (40.3.l).

All certified copies of birth certificates which have been amended following a legal change of name shall show the effective date of the order and the name of the court shall be entered on the certified copy (40.3.2).

A certified copy of a certificate or any part thereof shall be considered for all purposes the same as the original, and shall be prima facie evidence of the facts therein stated. However, the evidentiary value of a certificate or record filed more than one (1) year after the event, or a record which has been amended, or a "certificate of foreign birth", shall be determined by the judicial or administrative body or official before whom
the certificate is offered as evidence (23-3-24).

The state or local registrar may issue certified copies only of vital events recorded as having occurred in Rhode Island, except that certified copies of vital events recorded in Rhode Island, but having occurred elsewhere, may be made when evidence is presented that the event is not recorded at the place of occurrence (40.5).

Federal, state, local and other public or private agencies may, upon request, be furnished copies (non-certified) or data for statistical purposes upon such terms or conditions as may be prescribed by the state director of health (23-3-24).

No person shall prepare or issue any certificate which purports to be an original certified copy, or copy of a certificate of birth, death or fetal death except as authorized by Chapter 3 of Title 23 of the General Laws of Rhode Island or the regulations adopted thereunder (23-3-24).

Non-certified copies may be provided by the state or local registrar to governmental agencies or to individuals or institutions doing research in accordance with sections 38.2 and 38.3 of the rules and regulations (40.6).

Native Americans. Any American Indian or Native American whose certified copy of a birth record contains a racial designation that is incorrect may, without paying a fee, obtain 1 certified copy of his or her birth record from which such incorrect racial designation has been amended. The person requesting the birth record shall provide satisfactory proof from a tribal authority (23-3-24.1). (1998)

PENALTIES

(1) Any person who willfully and knowingly makes any false statement in a report, record or certificate required to be filed under Chapter 3 of Title 23 of the General Laws, or in an application for an amendment thereof, or who willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record or certificate or amendment thereof; or,

(2) Any person who without lawful authority and with the intent to deceive, makes, alters,amends or mutilates any report, record or certificate required to be filed under Chapter 3 of Title 23 or a certified copy of such report, record or certificate; or,

(3) Any person who willfully and knowingly uses or attempts to use, or furnish to another for use, for any purpose of deception, any certificate, record, report or certified copy thereof so made, altered, amended or mutilated; or,

(4) Any person who with the intention to deceive willfully uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person; or,

(5) Any person who willfully and knowingly furnishes a certificate of birth or a certified copy of a record of birth with the intention that it be used by a person other than the person to whom the record of birth relates; shall be punished by a fine of not more than $l000 or imprisoned not more than one (1) year, or both.

(b) (1) Any person who knowingly transports and accepts for transportation, interment or other disposition of a dead body without an accompanying permit as provided in Chapter 3 of Title 23; or,

(2) Any person who refuses to provide information required by Chapter 3 of Title 23; or,

(3) Any person who willfully neglects or violates any of the provisions of Chapter 3 of Title 23 or refuses to perform any of the duties imposed upon him by this chapter; shall be punished by a fine of not less than $25 nor more than $l00 or be imprisoned for not more than thirty (30) days, or both (23-3-28).

FEES

The state registrar and local registrars of vital records charge fees for searches and copies of records as follows:

--For a search of two (2) consecutive calendar years under one (1) name and for issuance of a certified copy of a certificate of birth, fetal death, death, delayed birth, or marriage, or a certification of birth or a certification that the record cannot be found..... $**20.00** **(2007)**

--For each duplicate copy of a certificate or certification issued at the same time.....$**15.00** **(2007)**

--For each additional calendar year search, if applied for at the same time or within three (3) months of the original request and if proof of payment for the basic search is submitted..... $**2.00** **(2007)**

See General Law section 23-1-54 which sets forth fees payable to the Department of Health, including those for searches and certified copies of Vital Records. (2012)

Fees collected under section 23-3-25 of the General Laws by the local registrar shall be deposited in the city or town treasury according to the procedures established by the city or town treasurer; except that $**6.00** of the certified copy fees shall be submitted to the state registrar for deposit in the general fund of the state (23-3-25). **(2007)**

The local registrar of vital records also collects the following fees:

--Marriage license fee.....$24.00

--**Civil Union license fee……$24.00** **(2011)**

The town or city clerk must keep an accurate account of all such fees charged and received. The town or city clerk must transmit all such sums due to the general treasurer at least monthly in the manner and with such forms as the general treasurer shall prescribe. The city or town clerk shall retain $8.00 and shall transmit $16.00 to the general treasurer (15-2-9; 15-2-9.1; **15-3.1-3). (2011)**

Veterans' exemption. Any veteran who served honorably in the military or naval service of the United States shall be processed without a charge or fee when making a request for vital statistics regarding a request for his or her own personal records (23-3-25.1).

CHAPTER 6

ELECTIONS

BOARD OF CANVASSERS AND REGISTRATION

The town clerk is ex officio the clerk of the local board of canvassers and registration (17-8-5). A record of the oath of office of the members of the local board must be kept by the clerk of such board (17-8-4). The town clerk must be paid legal fees for making out and recording the several lists and returns required by the state election laws (17-8-3). The clerk of the board must sign any subpoena to summon witnesses or any subpoena duces tecum (17-8-7)

Officers and employees of a city or town may serve as members of a local canvassing authority in a city or town where they are not employed (17-8-2). **(2007)**

Publication of local questions. Prior to each local election at which public questions are to be submitted to voters, the local board of canvassers must prominently post in at least three (3) local public locations and advertise at least once in a newspaper of local circulation prior to the election the full text of each legislative act to be acted upon and the election date, or the local board may substitute a description of the text of each act in lieu of the full text (17-8-10). (2008)

Uniform deadlines. A uniform deadline of 4 p.m. is established for the filing of any paper or the doing of any act pursuant to the state election laws; provided, however, that applications for emergency mail ballots must be received by 4:00 p.m. on the day prior to an election or primary. If any filing deadline falls on a Saturday, Sunday or holiday, the deadline shall be construed to fall on the next business day. This does not apply to registration to vote thirty (30) days prior to an election or primary (17-1-7). (2005)

REGISTRATION OF VOTERS

Eligibility to vote. Every citizen of the United States who is at least eighteen (18) years of age, whose residence and home has been in Rhode Island for at least thirty (30) days, and in the town or city in which he desires to cast his vote at least thirty (30) days next preceding the election, and who shall be registered in that city or town at least thirty (30) days preceding any election, shall be entitled to vote in the election. Additional qualifications are necessary to vote in a primary election. A person who has not registered to vote or whose registration has been canceled may cast a vote for president and vice-president on election day at the city or town hall **or at an alternate location designated by the board of canvassers, and approved by the board of elections, when the alternate location is deemed necessary to better accommodate those voters** (17-1-3). **(2011)**

Restoration of voting rights. A person who has lost the right of suffrage under Article II, Section 1 of the Constitution of Rhode Island because of such person's incarceration upon a felony conviction shall be restored the right to vote when that person is discharged from incarceration. The department of corrections shall act as a voter registration agency in accordance with section 17-9.1-8. In this capacity, and as part of the release process leading to a person's discharge from a correctional facility, the department of corrections shall notify that person in writing that voting rights will be restored, provide that person with a vote registration form and a declination form, and offer that person assistance in filling out the appropriate form. Unless the registrant refuses to permit it to do so, the department of corrections shall transmit the completed voter registration form to the state board or local board where the registrant resides (17-9.2-3). (2006)

Residence for voting purposes. A person's residence for voting purposes is his or her fixed and established domicile. The following shall be considered prima facie evidence of a person's residence for voting purposes: (1) the address furnished to the registry of motor vehicles for the voter's operator's license, (2) the address from which the voter's motor vehicle is registered, (3) the address from which the voter filed his last federal income tax return, (4) the address from which the voter filed his last state income tax return, (5) the address furnished to the companies from which the voter has obtained retail credit cards, (6) the address furnished to the financial institutions where the voter maintains accounts, (7) the address furnished to the tax collector and/or assessor in those communities where the voter owns taxable real or personal property for the purpose of notification to him, (8) the address furnished to the insurance companies with which the voter maintains policies, (9) the address furnished to the voter's employer, (10) the address furnished by the voter to any businesses, professional, union or fraternal organizations of which he or she is a member, (11) the address furnished to governmental agencies with which the voter has contact, (12) the address of a hospital, convalescent home, nursing home or rest home or like facility at which the voter has been a patient or resident for the preceding thirty (30) days or longer, (13) the address furnished to the United States Postal Service on a change of address form as verified by the United States Postal Service (17-1-3.1).

Registration required to vote. No person shall be a qualified voter at any election unless that person has registered to vote under the provisions of title 17 of the General Laws (17-9.1-1).

Duty of state board. It is the duty of the state board of elections to prescribe the style, color, quality, and dimensions of all registration forms, containers and other equipment required to provide for the permanent registration of voters, and for filing and safekeeping of the registration forms. The state board must furnish a sufficient quantity to the cities and towns. The board must also furnish the cities and towns with special professional assistance as may be necessary to assure the proper installation and servicing of the equipment (17-9.1-2).

Duplicate voter registration information. Any local board may adopt an alternative form and means for obtaining and retaining duplicate voter registration information which is approved by the state board of elections (17-9.1-2.1).

Receiving registrations. Local boards must receive voter registrations throughout the year during regular business hours. Registration for an election closes on the 30th day preceding the election. Registrations cannot be received on Sundays and legal holidays by the local board. Additional hours may be established for receiving registrations from the 40th to the 30th day before any election. Statewide or local registration agents or members of the General Assembly may accept registration of voters on any day (17-9.1-3).

All local boards must remain open from 8:30 a.m. to 4:00 p.m. on the last day prescribed by law for the taking of voter registrations. If the last day is a Saturday, Sunday or legal holiday, the local board may designate one (1) publicly accessible location in the city or town at which voter registrations will be taken. This location must be open for voter registrations at least from 1:00 p.m. to 4:00 p.m. The local board must publicly announce the designated location and hours at least 10 days prior to the last day for taking registration and advertise in a newspaper the designated location and hours at least twice prior to the last day for taking registrations (17-9.1-3).

Registration at high schools. Local boards must annually conduct a voter registration drive at each high school within the city or town. Each principal of every public or private high school and director of each vocational school may be a registration agent whose authority is limited to receiving and accepting registrations as electors from those qualified applicants who are enrolled as students within the school or are employed within the school. The principal or

director may designate one or more persons in the school to serve as registration agents, provided each designation is filed with the local board (17-9.1-4.1).

Local registration agents. Local boards must appoint a sufficient number of agents who shall serve throughout the year for the purpose of receiving registrations of persons residing in the city or town in which the agent was appointed to act. The agents shall have the power to accept registrations on Sundays and at any other time or place designated by the local board.

If a petition is filed with a local board, special registration sessions must be held in any factory, mill, wholesale or retail or other employing establishment, or hospital, home for aged, or convalescent home in the even-numbered years on or before July 5th for a state primary and on or before August 5th for a state election. See 17-9.1-5(b) for additional requirements regarding special registration sessions (17-9.1-5).

Qualifications and jurisdiction of registration agents. No registration agent, whether appointed by a local board, by the state board, or empowered by law, shall be authorized to accept registrations outside Rhode Island, and all registration agents shall themselves be registered to vote in the State of Rhode Island (17-9.1-5.2).

Form of registration cards. The state board of elections determines the size, color and number of sets of cards, one of which shall be designated as the original and any others as duplicates, containing the information required by the election laws (17-9.1-6).

Division of Motor Vehicles. The completed voter registration application shall be transmitted by the division of motor vehicles to the central voter registration system mandated pursuant to section 17-6-1.2 not later than the next business day after the date of acceptance by the division of motor vehicles. Transmission shall be made by electronic means as prescribed by the secretary of state, and shall be in an electronic form compatible with the voter registration system maintained by the secretary of state. For each registration electronically transmitted, a hard copy will be provided to the appropriate local board of canvassers (17-9.1-7). (2005)

Registration at designated agencies. Any voter registration application completed at the designated agencies listed in 17-9.1-8 of the General Laws must be sent by the designated agency to the state board or any local board not later than 10 days after the date of acceptance by the designated agency. However, if the acceptance occurs on the last day to register to vote or within 5 days preceding the date, the application must be sent to the state board or any local board not later than 5 days after the date of acceptance (17-9.1-8). **(2006)**

The registrations are subject to verification by the state board or any local board as provided in section 17-9.1-25.

Registration by mail. Every person who is, or may be by the next general election, qualified to vote may register to vote by mail. The mail registration must be in compliance with the requirements in the National Voter Registration Act of 1993.

Any person who has fully and correctly completed an application to register to vote by mail which is delivered by the postal service to the State Board of Elections or any local board shall be presumed to be registered as of the date it is postmarked.

In those cases where the mail registration form is received not later than 5 days after the last date to register to vote for an election and the postmark is either missing or unclear, the voter shall be presumed to have registered on or prior to the last day to register for an election.

In either case, the mail registration is subject to verification by the state board or any local board as provided in section 17-9.1-25. (17-9.1-9).

Every shut-in, servicemen's dependent, or peace corp volunteer or leader, otherwise duly qualified to vote, may register to vote by mail (17-9.1-9.1).

Additional method of registering. Whenever any person who is, or may be by the next election, qualified to vote, desires to register to vote, that person may appear before:

1) the local board of the city or town in which he/she has residence; or
2) before the clerk or other duly authorized agent of the board; or
3) before a registrar appointed by the state board of elections.

The person must furnish the information required by law and after the information has been recorded on the registry card, the person must sign and thereby certify to the truth of the facts recorded. However, whenever any person is unable to sign his/her name because of physical incapacity or otherwise, he/she must make his/her mark "(X)", which must be witnessed by the person receiving the registration (17-9.1-10).

It is the duty of the person receiving the registration to inform the person who is registering to vote that the voter will be mailed an acknowledgment card advising of the disposition of the registration and in the process verifying that the person resides at the address provided on the registration form. The person must also be advised that if the acknowledgment card is returned as undeliverable, the person will be placed on the inactive list of voters pending the results of the confirmation process. Nothing contained in this section shall be deemed to entitle a person to vote whose registration form has not been filed with the local board at least 30 days before an election (17-9.1-10).

Certification of citizenship. Before the name of any person shall be placed on the voting list, the person must, at the time of registration, certify or declare that he/she is a citizen of the United States (17-9.1-11).

Filing of registration cards. The original registration cards must be arranged and maintained in alphabetical order by surname for the entire city or town and must be filed in suitable containers. Any duplicate set of cards must be maintained at the discretion of the local canvassing authority subject, however, to prior approval from the state board of elections (17-9.1-13).

In connection with the operation and maintenance of the central voter register, the local board must provide promptly to the office of the secretary of state information provided to the local board relative to any voter registration (17-9.1-13).

Custody of registration cards. The containers of the original and any duplicate registration cards in the possession of the local board and the keys thereto must be kept in the custody of the local board. These containers must remain securely locked at all times and shall be opened only by the local board or its specially authorized agent at its office (17-9.1-14).

Registration records public. Except as provided in 17-9.1-6, the original and any duplicate registration cards shall be public records and shall be open to public inspection and copying at all reasonable times.

All other records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, and the registration list prepared pursuant to 17-9.1-21 shall also be deemed public records (17-9.1-15)

Change of address. See 17-9.1-16 for new provisions of law regarding:

(A) Change of address within the same city or town;

(B) Change of address from one (1) city or town to another city or town;

(C) Persons erroneously excluded from certified voting list.

Re-registration. A voter may register in a city or town into which he or she moved whether or not the voter has notified the board of the city or town in which the voter was last registered of the voter's change of address. Such action of registration shall automatically cancel the voter's registration in the former city or town. **The provision requiring local boards to notify the secretary of state of the registration in the new city or town and of the cancellation of the former registration has been deleted.** (17-9.1-17). **(2007)**

The local board of any city or town shall, upon receiving the registration of any person, notify the board of the city or town stated by the person to be that person's last place of residence, of the registration. Thereupon the last mentioned board shall **retain** the original registration card of the person **in accordance with the approved records retention schedule for boards of canvassers issued by the state archives.** **(2007)**

The state board shall have authority by regulation to direct the manner in which the provisions of this section are carried out by the local boards and the secretary of state (17-9.1-17).

Change of name. Any registered voter whose name has been changed by marriage or court action shall be entitled to have the change of name recorded on the registration records of the local board, and upon the recording, shall be entitled to vote under the changed name. The local board shall notify the secretary of state of the action (17-9.1-18).

Single registration. No voter shall be required to re-register if he or she is already registered in the city or town in which the voter has his or her residence as defined in 17-1-3.1. Any voter who is registered in more than one city or town shall be deemed to have authorized the cancellation of all registrations other than the last one in point of time. Nothing in this section shall be taken to validate any registration which is not in a city or town where the voter has his/her residence. **The local boards of canvassers must review their voter registration files on a quarterly basis in accordance with regulations adopted by the secretary of state for the purpose of removing duplicate voter registrations in the central voter registration system for any voter registered** (17-9.1-19). **(2008)**

Registration lists furnished to political parties. If requested to do so by the state and/or city or town chairperson of any political party, or any state or local office holder or declared candidate for public office, local boards, not more than ~~once each week and not less than~~ once a month, must furnish without cost and without unreasonable delay, the names and the addresses of: **(2008)**

(1) all persons who are newly registered to vote in the city or town;

(2) all electors who have transferred to a new voting address; and

(2) all persons whose names have been removed from the voting list or placed in the inactive category (17-9.1-21).

Party designation. Whenever any person registers to vote, that person may designate his/her party affiliation, or may designate that he/she is not affiliated with any political party. Such information must be recorded on a form prescribed by the state board of elections.

If a person, who is already registered to vote, wishes to designate his/her party affiliation, that person must go before the local board of canvassers and designate a party affiliation and certify to the fact on a form furnished for that purpose.

If a person participates in a party primary, that act shall serve as identifying the person as being affiliated with the party and the local board must record the affiliation on the appropriate form (17-9.1-23).

Change of designation. Any person who has designated his/her party affiliation may change the designation on or before the 19th day preceding any primary election for which the person is eligible. The person must appear before the local board, or clerk or duly authorized agent to change his/her party designation. After the information is recorded on the form furnished for that purpose, the person must sign and thereby certify to the truth of the facts recorded; or the person must furnish a properly-executed and signed affidavit directing the board to change the party designation. Whenever any person is unable to sign his/her name because of physical incapacity or otherwise, the person must make his/her mark "(X)" which must be witnessed by the person receiving the registration. For the convenience of persons voting at a primary election, affidavits for changing party designation must be available at all primary polling places (17-9.1-24).

Acknowledgment of registration or change of address. The local board must mail an acknowledgment notice to each newly-registered voter and to each voter who changes his/her voting residence within seven days after receipt of the registration or change of address. **The acknowledgment notice can be addressed to the U.S. postal service post office box at which the voter receives mail if the voter is not eligible to receive home mail delivery. (2012)**

The acknowledgment form shall be **of a** size and other specifications as determined by the state board of elections. All cards returned as undeliverable must be attached to the registration cards and maintained as a record of the local board.

Any voter whose application to register to vote has been accepted, but whose acknowledgment **notice** has been returned by postal authorities as undeliverable, shall be placed on an inactive list of voters and shall not be permitted to vote unless an affirmation form is completed. Upon receipt of the undeliverable acknowledgment **notice**, the local board must commence the confirmation process (17-9.1-25). **(2007)**

Confirmation process. The local board must begin the confirmation process:

1) whenever an acknowledgment card is returned as undeliverable; or

2) whenever, through the periodic updating of voter registration records, a change of address is detected for any voter; or

3) whenever, as the result of a challenge, the challenged voter fails to appear before the local board; or

4) whenever a mailing by the jury commissioner to a voter is returned as undeliverable; or

5) whenever any other official mailing from either the state board or a local board or form the office of the secretary of state is returned as undeliverable.

The confirmation **notice** must be sent by first class forwardable mail and must be of such size and other specifications as shall be determined by the state board of elections. **The notice shall include a voter registration form that** may be used by the voter to verify or correct the voter's residence address for voting purposes. The confirmation **notice** must be mailed to both the voter's current registered address and any new residence address, to the extent both addresses are available to the local board.

If a confirmation **notice** is either returned as undeliverable or the voter has not responded within 14 days from the mailing, the voter must remain on or be placed on the inactive list. The voter shall not be permitted to vote until such time as he/she signs an affirmation form at either the approved polling place or at the local board of canvassers.

If the voter fails to vote by the second general election following the date of the confirmation mailing, the voter shall be removed from the voting list. See section 17-9.1-26(e) for provisions regarding the National Change of Address Program.

Local boards are required to maintain for at least two years a record of all outgoing confirmation mailings including the reasons for the mailings. Records must be kept in a manner as may be determined by the state board of elections (17-9.1-26). **(2007)**

Updating of voter registration records. In every odd-numbered year, the secretary of state shall update the central voter register using the United States Postal Service National Change of Address (NCOA) Program. The office of the Secretary of State shall be responsible for obtaining the NCOA data and providing each local board of canvassers with their data; provided, however, that the updating shall be performed by each local board. The NCOA list of address changes shall be compared by the local board with lists of registered voters and if address changes are detected for any voter the local board must institute the confirmation process (17-9.1-27).

Each local board of canvassers shall annually send a notice prescribed by the Secretary of State and marked "Do Not Forward – Return if Undeliverable" to every active registered voter who has not voted in the past five (5) calendar years informing them that mail returned as undeliverable will initiate the confirmation process. The mailing must be performed in a uniform manner, in accordance with standards adopted by the Secretary of State and the list maintenance procedures provided by the National Voting Rights Act, 42 U.S.C. section 1973gg (17-9.1-27). (2010)

Maintenance of voter registration files. All institutions of higher education must, on or before August 15th of each year, electronically transmit a text file or database to the Secretary of State containing the names and current addresses of students who have graduated that year, and for whom public directory information is available. Within 15 days of the receipt of the file or database, the Secretary of State may send a letter to each student requesting verification of intent to continue to reside in the state (16-59-25.1). (2011)

Challenge of registration. Any elector may challenge the registration of a voter by submitting to the local board an affidavit stating that the voter is not eligible to vote and setting forth evidence that would create a reasonable cause to suspect that the challenged voter is not in fact eligible.

The local board, upon receipt of the affidavit and upon finding that the affidavit establishes reasonable cause, shall send, by certified mail, a notification of the challenge to the voter at his/her registered address. The challenged voter must appear before the local board at a time and place to be determined by the local board. The objector must also be notified of the hearing (17-9.1-28).

If the board finds that the affidavit does set forth reasonable cause to suspect that the challenged voter is not eligible, the voter, upon taking the oath or affirmation in section 17-9.1-28(b), must answer pertinent questions as provided in section 17-9.1-28(C), and any other questions necessary to establish eligibility.

If the local board determines that the voter is not eligible to vote or not eligible to vote within the city or town, the voter may be stricken from the voting list.

If the local board determines that the voter is eligible to vote within the city or town, but not within the voting district where the voter is currently registered, the voter shall remain on the voting list and the board shall record the voter's change of address to the new voting district within the same city or town.

If the voter does not appear at the hearing, the voter shall not be stricken from the voting list, but the local board must begin the confirmation process. Provided, however, no confirmation mailing shall be sent out and no person shall be removed from the voting list within 90 days prior to any election except: 1) at the request of the voter, 2) by reason of criminal conviction or mental incapacity, or 3) by reason of the voter's death.

The mailing of acknowledgment cards verifying voter registration applications and the recording of a change of address of a voter who has changed voting residence within the city or town is permitted within the 90 day period (17-9.1-28).

Appeal of ruling by board of canvassers. All appeals from decisions rendered by the board of canvassers of the various cities and towns regarding the eligibility of a person to vote must be to the state board of elections (17-9.1-30).

Age. Persons who are 17 years of age and will be 18 by the date of the next election are allowed to register for the next election, and persons who are at least 16 years of age may preregister upon satisfactory proof of age, and will be automatically registered upon reaching 18 years of age (17-9.1-33). (2009)

CANVASSING THE LIST OF QUALIFIED VOTERS

Canvassing. The local board must continually purge the registration cards of voters no longer qualified to vote in the town. It must promptly record all changes of address, changes of name, transfer and cancellations of registration (17-10-1).

A voter's name shall be stricken from the voting list and the voter's registration shall be canceled if:

(1) a confirmation card has been mailed to a registered voter at an address outside the city or town of the voter's current registered address for voting purposes,

OR

(2) a confirmation card has been mailed to an address within the same city or town where the voter is registered,

AND

(3) the voter has failed to respond to the confirmation card, which was sent to confirm to voter's continuing residence within the city or town and not merely to confirm information provided by or through the postal service concerning a change of address within the city or town.

AND

(4) the voter has not voted or appeared to vote in an election during the period beginning on the date of the mailing of the confirmation card and ending on the date after the date of the second general election that occurs after the date of the mailing of the card (17-10-1).

The registration of any person shall not be so canceled during his/her service in the armed forces of the United States and during two years thereafter.

A voter whose registration has been so canceled shall not be eligible to vote unless he/she registers again. The local board must notify the secretary of state of any cancellation (17-10-1)

The local board shall notify each voter whose registration has been canceled by a notice addressed to the voter at his last known address and a memorandum that such notice has been sent shall be maintained on file by the local board (17-10-1[b]).

The secretary of state, upon receipt of the monthly list of individuals who have died from the office of vital statistics (23-3-5), shall identify all voter registrations that may be reflected on the list and notify electronically the local boards of canvassers. The local board, upon receipt of the ~~monthly~~ list of deceased persons from ~~the local~~ ~~registrar of vital statistics~~ **the secretary of state, or upon receipt of an affidavit of death on forms prescribed by the secretary of state,** must promptly purge its files of registration cards by ~~deleting~~ **removing** the cards of each deceased elector **and canceling the voter registration information of the deceased elector from the central voter registration system** ~~The local board must notify the Secretary of State of this action~~ (17-10-1[c]). **(2008)**

The local board must maintain a separate list of all new registrations and all transfers of registration which are received by the board within the 30-day period prior to the close of registration prior to each primary, regular and special election. The list must be maintained until the election is held (17-10-1[d]).

Preliminary lists. Forthwith after the close of registration of each general election and each primary election for a general election, the local board must publish and post a preliminary list of all persons who appear from the registration cards to be registered to vote at the next election. **The preliminary list shall be computer generated from the statewide central voter registry system. The list shall be available for public inspection at the local board of canvassers where the list shall be open to examination at all reasonable times.** The local board must, upon request, furnish without charge five (5) copies of the list to the state, city or town chairman of any political party (17-10-3). **(2006)**

The local board, before the 20th day preceding each election, must meet and canvass the preliminary lists and hear objections to the inclusion or omission of any person as a registered voter. They then must make a final canvass and correction of the registration files. The board must give ten (10) days' notice of the time and place of the meeting by posting notices in the same manner for the posting of the preliminary lists and by publishing the notice in a newspaper having general circulation in the town (17-10-5).

Within one-hundred twenty (120) hours after the striking of a name from the registration or voting list, the board must mail to the person a notice of the striking of his name and the reason

(17-10-8). The clerk of the board must record the votes of the members on adding or striking the name of any person upon request of any member or qualified elector present at the time of the canvassing (17-10-9). If the person whose name has been stricken appeals to the State Board of Elections to have his name added, the members and clerk of the local board will be cited to appear before the State Board to show cause why the petitioner's name should not be added (17-10-12). If the State Board finds that the name of the appellant is entitled to be placed upon the voting list, the said Board shall order such name to be placed upon the voting list. The clerk must place the name on the voting list (17-10-13).

The clerk of the local board must furnish, upon request of any person and tender of legal fees, a certified copy of any list of voters whose votes have been given in any election (17-10-22), or a certified copy of any registration of voters. Every clerk of a local board, upon request of any person and tender of legal fees, must examine the records and certify to the estate of any person and must furnish copies of any instrument or writing which may be on record or in the files of this office (17-10-23)

VOTING DISTRICTS AND OFFICIALS

The local board may, on or before the sixtieth (60th) day preceding any election, divide or redivide the **city or** town or any representative district into voting districts as determined by geographical boundaries. The board must divide the **city or** town, representative district, or ward so that substantially not more than ~~nineteen hundred (1900~~) **three thousand (3,000) total eligible registered** voters are served by the same polling place; provided that **any division conducted by the local board does not result in** creating a polling place serving less than ~~one hundred fifty (150)~~ **five hundred (500) total eligible registered** voters, **except when caused by legislative district boundaries or when a polling place is located in a low-income or elderly residential development. No existing polling place presently located in a low-income or elderly residential development can be eliminated. Upon approval of any polling place by the State Board of Elections, changes to the polling place are not allowed until the next redistricting by the General Assembly unless certain specified conditions are met (17-11-1). (2012)**

When a local board divides or redivides a senatorial or representative district into voting districts, they must give public notice in a newspaper and must post, for a period of forty (40) days, a map showing the lines of the voting districts in the office of the local board or in the town clerk's office (17-11-2).

All district clerks and district moderators in each town must be appointed by the local canvassing authority at least 35 days before any election or town meeting. These appointments must be from a list of not less than 10 registered voters submitted by the chairpersons of the local political town committees at least 15 days prior to the appointment date. Upon the failure to submit a list of names, the appointments are made by the local boards of canvassers from the voting lists of the towns (17-11-6). (2009)

In case of the absence of the moderator of any town meeting, of a town not divided into voting districts, the town meeting may elect a moderator and the town clerk must preside at the election of the moderator (17-11-9).

Every person appointed by the local board as a warden, clerk, moderator, or supervisor must be notified in writing within forty-eight (48) hours by the clerk of the local board of the appointment. The person so appointed must within five (5) days of his or her appointment notify in writing the clerk of the local board of his acceptance or declination of the appointment

(17-11-12). Local boards are authorized to create a pool of election officials who shall be available to fill vacancies wherever needed (17-11-7.1). (2004)

An elections official may appoint not more than five (5) high school students per ward and/or precinct to work as a supervisor/moderator to serve under the direct supervision of ward and/or precinct board members designated by the elections official (17-11-12.1). (2008)

An officer or employee of the United States, of this state, or of any city or town of this state is eligible to be appointed to serve as an elections official (17-11-15). (2002)

PARTY COMMITTEES

Each local committee, within ten (10) days after its organization, must file with the secretary of state and the local board a list of its officers and members (17-12-9). A statement of the filling of any vacancy in the local committee must also be filed with the local board (17-12-12).

The local committee must file with the local board the list of candidates which have the endorsement of the party in the primary. The endorsement must be filed no later than 4 p.m. of the day after the last day for filing declarations of candidacy (17-12-11). If the local committee fails or neglects to endorse and notify the local board, the state committee may do so within twenty-four (24) hours after the failure (17-12-4).

Wherever a duty is imposed by law upon the president of a town council, or the local board of any city or town, or a town clerk, town sergeant or constable in connection with the election of a senator or representative, it is imposed upon the above officials in each of the towns in which the senatorial or representative district lies (17-12-7). (2002)

Qualifying as a political party by petition. Any political organization which qualifies as a political party by petition must obtain the necessary signatures no earlier than January 1st of each year in which the election is held. If the political organization wishes to select its nominees in a primary election, the petitions, bearing the requisite number of valid signatures, must be presented to the appropriate local boards of canvassers no later than June 1st of the same year. If there is no primary election, the petitions must be returned to the local boards of canvassers not later than August 1st of the same year (17-1-2f).

PRIMARY VOTING LISTS

Preceding the primary election of a political party prior to a general election, the local board must prepare and post in **the local board of canvassers** a separate list of voters with their addresses who are eligible to participate in the party primary. Each list must be plainly marked with the name of the party (17-13-1). **(2006)**

Any person claiming his name has been erroneously included or omitted from the list may file an affidavit with the local board within five (5) days from the posting of the list. The board must make the proper change if satisfied with the claim (17-13-2). The same procedure and sequence must be followed in a primary for a special election except the state board of elections fixes and publishes the various dates and periods in the sequence (17-13-3).

The local board must furnish five (5) complete copies of printed lists to the local chairman of each political party and certified copies of the primary lists to any political party or candidate (17-13-5).

NOMINATION OF PARTY AND INDEPENDENT CANDIDATES

Declarations of candidacy. Declaration of candidacy for local and state offices must be filed with the appropriate authority (local with local board and state general offices with the secretary of state) during the last consecutive Monday, Tuesday, and Wednesday in June in the even years and during the 39th and 40th days preceding a primary election for a special election or for an election regularly scheduled for a time other than the biennial general election. The above schedule is for both party candidates and independent candidates (17-14-1). Candidates for ward, town, or district committee members must file declarations of candidacy biennially, in every even year, in accordance with 17-14-1 of the general laws (17-12-8C).

Nomination papers. Upon receipt of the declarations, the local board must prepare nomination papers for local offices (17-14-4). The local board must retain each declaration and issue nomination papers within two (2) business days of the final date for filing endorsements. A minimum of 3 sets of nomination papers must be prepared for each candidate. Nomination papers must be prepared with the name of the candidate as it appears on the voting list regardless of how the candidate signed the declaration of candidacy. General Assembly and local candidates may, at their own expense, have nomination papers duplicated. The signatures on any duplicated nomination papers will only be considered valid, if and only if, they have been time-stamped by the secretary of state or the local board of canvassers prior to any signatures being affixed (17-14-4)

Nomination papers for party and independent candidates must be submitted to the local board on or before 4 p.m. of the 60th day before the primary or on the 28th day before primaries for a special election. Provided, however, that nomination papers for independent presidential candidates and presidential candidates of political parties other than those defined in section 17-1-2(f) shall be filed not later than 60 days prior to the general election (17-14-11).

All signatures on the nomination papers must be checked against the voting list. The local board must certify the number of qualified electors on the nomination papers and must file all nomination papers for state offices with the Secretary of State (17-14-11).

All nomination papers for state offices and all certified lists of candidates for local offices must be filed with the secretary of state not later than fifty-four (54) days before the primary preceding a general election. Nomination papers for independent presidential candidates and presidential candidates of political parties other than those defined in Section 17-1-2(f) must be filed by the local boards of canvassers in the Office of the Secretary of State not later than 54 days before the election. If the primary precedes a special election, they must be filed with the secretary of state on or before the 26th day preceding the primary. All such nomination papers and certified lists must be filed before 4 p.m. of the last day fixed therefore (17-14-12). All certified lists of candidates and local questions to be voted on must be in final form when certified to the secretary of state by the local boards (17-14-12.1)

Objections. All objections to the eligibility of a candidate for local office or to the sufficiency of his nomination papers must be filed with the local board by 4 p.m. on the next business day after the last day fixed for the filing of the nomination papers (17-14-13). When an objection is filed, the local board must give notice to the candidate. The decision of the board must be rendered within two (2) days after the filing of the objection and must be certified to the secretary of state (17-14-14). Following the determination of objections, the local board must certify to the secretary of state the names and addresses of all candidates who have filed valid nomination papers (17-14-16).

Withdrawal. In order to withdraw his name, a candidate for local office must file a certificate of withdrawal with the local board by 4 p.m. on the next business day after the last day fixed for the filing of nomination papers. If an objection has been filed, the certificate of withdrawal need not be filed until twenty-four (24) hours following the decision on the objection (17-14-15).

PRIMARY ELECTIONS

Dates.{***Local boards must be continuously in session during the hours assigned for voting (17-15-23). Repealed }*** Primary elections preceding a general state or municipal election are held on the 2nd Tuesday after the 1st Monday in September in each even year (17-15-1). **(2006)**

The date for holding a primary election preceding a special election is determined by the state board of elections provided it is held by the 30th day preceding the special election (17-15-3).

In those towns which hold elections for local offices on a day other than the Tuesday after the first Monday in November biennially in each even year, the local board determines the date of the primary provided it is held by the 30th day preceding the date for the election (17-15-4), unless provided for by charter or special act.

Time of opening polls. In all primary elections in all cities and towns, polls may open at 7:00 a.m. Notice must be given and posted by the local board (17-18-10).

Officials. The local board must issue certificates to the primary warden or moderator, the primary clerk, the supervisors, checkers and runners as primary or party officials (17-15-13). *[See recent amendments that affect dates of appointment for the above officials.]* The primary clerk, warden or moderator and supervisors must make an affidavit before the local board to the effect that they are not disqualified to serve by reason of the provisions of law (17-15-14). (2004)

Notice. The local board must give eight (8) days' notice of a primary either by posting a notice in at least one (1) public place in each voting district or by publishing the notice in a newspaper having local circulation in the town (17-15-17).

Unlisted voter. ***{ Any voter finding that his or her name is not on the certified voting list to be used at the primary election may make an affidavit before the local board that he or she is not disqualified from participating in the primary election under the provisions of section 17-15-24. If the board is satisfied, he or she may be allowed to vote either at the local board or at the polling place for the voting district in which the voter resides. In the latter case, the local board shall issue a temporary registration certificate as provided in section 17-10-18 (17-15-23). Repealed }*** **(2006)**

Disqualification by activity in other party. No person shall be entitled to vote in the primary election of any political party who has voted in a primary election as a member of any political party and has not changed their party designation (17-15-24).

Tabulation of local returns. When a local election is held in conjunction with a statewide election, the state board must tabulate local mail ballots and forward the results to the appropriate local board; when a local election is not held in conjunction with a statewide election, the local board shall tabulate their local mail ballots (17-15-30).

Recount petition. A recount petition may be filed with the state board of elections no later than 4 p.m. on the day following the primary (17-15-34). The result of the recount must be finally determined by the local board (17-15-30).

Certificate of nomination or election. Following the expiration of the period during which a recount petition may be filed or following the final determination of a recount, the local board must issue certificates of nomination, or election to party offices, to the candidates (17-15-30).

Filing of nominations. ***{ The local board must file with the town clerk not later than 4 p.m. on the 4th day following each primary certified copies of the certificates issued. In the event of a protest, the local board is allowed an additional forty-eight (48) hours. Within twenty-four (24) hours the clerk must file with the secretary of state certified copies of the certificates filed with him. In towns which hold elections for town offices on a day other than the Tuesday after the first Monday in November biennially in each even year, or in the event of a special election, the certified copies must be filed with the town clerk not later than the 10th day preceding the election (17-15-37). In cities, the local board shall file with the secretary of state not later than 4 p.m. on the fifth day following each primary preceding the election or if said fifth day falls on a Sunday or a legal holiday, not later than 4 p.m. on the following day, or not later than the 29th day preceding a special election, certified copies of the certificate issued by it (17-15-36). Repealed }*** **(2007)**

ELECTIVE MEETINGS

Warning. Town meetings for purposes of election must be warned and organized in the same manner as town meetings for other purposes (17-18-1). For town clerk's duties regarding town meetings generally see "Financial Town Meetings" in the final chapter of this handbook. Statutory provisions regarding the posting of notices for senatorial district, representative district and voting district meetings are found in 17-18-3. Canvassing authorities shall issue its warrant of election at least seven (7) days before the day appointed for such meetings (17-18-3).

Combination of voting districts for special elections. **The board of canvassers of any city or town at which there shall be submitted to voters a question or questions for their approval or rejection but at which no state or local officials will be elected, shall have the authority to combine 2 or more voting districts, when in its judgment the combination is advisable, and when combined shall be treated as a voting district, but only upon the approval of the board of elections** (17-11-1.1). **(2006)**

If voting districts are so combined, the local board must advertise said combination of districts in a newspaper of general circulation in the city or town no less than seven (7) days and no more than twenty-one (21) days before said special election (17-11-1.1).

District officers. The voting district clerk must, in writing duly certified, notify the town clerk of the choice of officers in the district (17-18-6).

CONDUCT OF ELECTION

Voting booths. In order to determine the number of voting booths required for each voting place, the local board must certify to the state board the number of names on the voting list resulting from the final canvass of the voting list by the local board. In making the calculation required by this section, voters whose names are on the inactive list of voters shall not be included (17-19-4).

Upon request of a town or district moderator charged with conducting a financial town meeting or regional school district meeting, the State Board of Elections must furnish each meeting with 1 computerized voting machine a year, and voting booths and ballots marked “yes” and “no”, at the state’s expense. The request, which must be delivered not later than 15 days

prior to the meeting, must indicate the number of ballots needed and the number of anticipated voters (17-19-4.2). (1998)

Municipal budget referenda. At the request of a city or town council, the State Board of Elections must furnish a sufficient number of voting machines for use in connection with votes to be taken at any municipal budget referenda. The request must be made to the Board at least 15 days prior to the date of the municipal budget referenda (45-3-25). (1998)

Ballots. In order to enable the secretary of state to prepare suitable ballots, the local board must certify to the secretary of state: (1) the offices to be voted for, (2) the names of the candidates, (3) the party name under which each candidate was nominated, (4) a copy of each question to be submitted to the electors of the city or town so that suitable ballots may be prepared and furnished therefor, and (5) any other necessary information. When the election is to be held on the first Tuesday after the first Monday in November in any year, the local board must certify not later than 4 p.m. on the third day following the last day for holding the primary. For all other regular elections and special elections, they must certify not later than 29 days before the election. (1999)

In the case of local referenda questions, the local board must certify to the secretary of state not later than 4:00 p.m. on the 90th day preceding any regular city or town election held on the Tuesday after the first Monday in November in any year. For all other regular or special city or town elections, the local board must certify not later than 50 days before the election (17-19-7). (1999)

Ballots for voters who are blind, visually impaired or disabled. In accordance with the Help America Vote Act of 2003, the voting system at each polling place shall be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation as for other voters (17-19-8.1). (2006)

Delivery of election supplies. Computer ballots to be used at each polling place, ballot transfer cases, marking pens, secrecy sleeves and any other items related to the voting equipment shall be packaged by the state board and picked up by the local canvassing authority (17-19-12).

Sample ballots. The secretary of state must furnish the state board of elections with a reasonable supply of sample ballots for public distribution upon request; and at least three (3) sample ballots for each voting place (17-19-10). The local board must post the sample ballots in a conspicuous place in each polling place (17-19-17).

Custody of voting machines. The local board is responsible for safeguarding the voting machines. The board must deliver the keys of the machines to the warden of the elective meeting at least one-half (1/2) hour before the opening of the polls. The keys of each machine must be placed in a sealed envelope upon which must be written or printed the number and location of the machine, and the numbers registered on the protective counter (17-19-17).

Bilingual poll workers. If any local board determines that it requires ballots printed in a language other than English, the board must provide at each polling place at least one individual who is fluent in the language for each language for which the ballots were sought. The person(s) shall be available to assist voters in casting their ballots upon request by the individual or at the direction of the warden during all hours of poll operations (17-19-22.1). (2001)

Bilingual voting material. If a city or town, based on census data, is subject to the provisions of the bilingual voting materials requirement, the city or town must provide any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots in the language of the applicable minority group as well as in the English language (17-19-54). (2001)

Provisional voting under the Help America Vote Act of 2002. If an individual's name does not appear on the certified voting list and the individual is eligible to vote in an election for federal office or an election official asserts that the individual is not eligible to vote in the district in which the individual desires to vote, then the individual shall be permitted to cast a provisional ballot. Provisional ballots shall be cast in accordance with rules and regulations which shall be promulgated by the state board of elections (17-19-24.1). (2003)

Certified voting list – Duty of bipartisan supervisor. Immediately upon the close of the polls, the bipartisan pair of supervisors shall securely bind, tie or seal the certified voting list in the manner that shall be required by the state board, and the supervisors shall affix thereon their certificate under oath that the marks within the certified voting list next to each voter's name comprise one for each person who was permitted to pass before the warden and to cast a vote at the election. The bipartisan pair of supervisors shall then give the certified voter list to the warden, who shall deliver the list to the local board together with the affidavits and materials used at the election (17-19-25). (2006)

Challenge of identity as to right to vote. Whenever the identity of any person offering to vote is challenged at the polling place, that person shall be permitted to vote only **using a provisional ballot as defined in section 17-19-24.1 (17-19-27). { Affidavits as to identity of voter challenged are eliminated. } (2006)**

Voter identification. Beginning January 1, 2012, any person claiming to be a registered and eligible voter who desires to vote at a primary election, special election or general election must provide proof of identity. Proof of identity must include either a valid and current document showing a photograph of the person to whom the document was issued (list of qualified documents included in 17-19-24.2) or a valid and current document without a photograph (list also included in 17-19-24.2). After January 1, 2014, the proof of identity document must include a photograph. The Secretary of State must issue Voter Identification Cards no later than January 1, 2012, to satisfy the photograph requirement. (2011)

Provisional ballot procedures. Persons who have failed to provide proof of identity pursuant to section 17-19-24.2 must be allowed to vote by provisional ballot upon executing a provisional voter's application. All provisional ballots as well as the applications must be placed in an envelope and deposited in a ballot box. The local board must determine the validity of the provisional ballot by comparing the signature on the application with that on the voter's registration. The provisional ballot must count if the signatures match, but if there is no match the ballot must not count, and it remains in the envelope and must be marked "Rejected as Illegal" (17-19-24.3). (2011)

Temporary registration certificates*. { If satisfied with a persons' claim to a right to vote, the local board may issue a temporary registration certificate to any person whose name is not on the certified voting list for the city or town in which the voter resides. The certificate, which must be duly signed manually by the board or a member thereof, must be addressed to the warden of the voting district in which the applicant is found to be qualified to vote. The board must keep a copy of the certificate and must make a proper record of the action, signed by the members who ordered the issuance of the certificate (17-19-28). Repealed }* **(2006)**

Time of closing polls. Elective meetings in all cities and towns shall be continuously kept open for voting until **8 p.m**. (17-18-11) **(2011)**

Irregular ballots. At the close of the polls, irregular ballots must be packaged and delivered to the local board of canvassers. The local board must remain in session on election night to receive the ballots, open the package, and count and record all write-in votes cast for all federal, state and local races listed on the ballot. The local board must immediately notify the state board of the results through a procedure established by the state board of elections (17-19-31).

Sealing and forwarding of results. ***{ The record book must be placed in a paper wrapper and directed to the town clerk. The record book and envelope must then be sealed with two (2) or more adhesive labels, signed in ink by the warden and clerk of the voting district, affixed upon the envelope (17-19-33). Eliminated by amendment }*** **(2006)**

The **certified voter list containing voters' signatures** must be packaged separately and returned to the local board of canvassers. All **completed official affidavits, forms,** reports and supplies must be packaged and delivered to the local board for subsequent delivery to the state board (17-19-33). **(2006)**

Tabulation of town returns. The local board must meet on the day following the election to tabulate the returns and announce the results. The local board must issue certificates of election upon the expiration of the time for filing petitions challenging the results (within seven [7] days after the election) or upon the final determination of such a petition (17-19-36).

Voted ballot storage and security. Voted computer ballots that were voted and packaged at a local precinct or counted at the local board shall be held and stored in containers by the local board in accordance with the regulations promulgated by the state board until the expiration of twenty-two (22) months from the date of election. The voted ballots shall remain stored in the appropriate containers unless ordered to be opened by the state board or a court of law. The computer file containing ballot layout information and candidate totals shall be transferred to a disk and retained permanently (17-19-39.1). (2004)

Statement to secretary of state. After the result has been ascertained, the local board must furnish to the secretary of state a statement of the number of votes cast in the city or town for each candidate, the total number of votes cast in the city or town for and against any proposed amendment to a charter or question, and the names of the respective candidates elected and the offices to which they have been respectively elected (17-22-5.2).

Posting of original voter registration records. Following the return of the certified voting lists to the local board, the board must cause the original registration records to reflect the appropriate voting facts from the immediately preceding election and shall also post the appropriate voting facts set forth in the list of absentee voters furnished by the state board of elections following the counting, canvassing, and tabulation of mail ballots. The state board, by regulation, shall provide direction to the local boards in the recording of these facts and information (17-19-48).

Children in voting booth. A voter may be accompanied by a child or children under the age of 13 years while the voter is within the voting booth. (17-19-53).

MAIL BALLOTS

Registration and absentee ballot procedures under the Help America Vote Act. The secretary of state is designated as the single state office responsible for providing information regarding voter registration procedures and absentee ballot procedures under Section 702 of the Help America Vote Act of 2002 (17-20-6.2). (2003)

Eligibility for mail ballots. General categories of who can apply for a mail ballot. **Some categories have been eliminated** (17-20-2). **(2011)**

Requirements for validity of mail ballots and mail ballot applications. This section lists the procedures that must be followed to validate both applications and mail ballots. **These requirements have been substantially amended** (17-20-2.1). **(2011)**

Requirements for validity of emergency mail ballots. This section lists the procedures that must be followed to validate emergency mail ballots. **These requirements have been substantially amended** (17-20-2.2). **(2011)**

Exemption from registration. Any member of the armed forces or of the merchant marine of the United States in active service, any person absent from the state in the performance of services intimately connected with military operations, as defined in section 17-20-3(c), and any person who is employed outside of the United States, as defined in section 17-20-3 who, except for registration, would be a qualified elector of this state, is exempt from the registration requirements of the state constitution during the period of service or employment and for two (2) years thereafter (17-20-4). (2001)

Alternative methods of voting by citizens covered by the Uniformed and Overseas Citizens Absentee Voting Act and other citizens residing outside the United States. The Federal Post Card Application (FPCA) may be used as a request for an absentee ballot by: (2005)

(1) A member of the armed forces who is absent from the state by reason of being in active service;

(2) Any person absent from the state in performance of "services intimately connected with military operations" as defined in section 17-20-3(d);

(3) Any person who is employed outside of the United States as defined in section 17-20-3 (c); and

(4) Any person who does not qualify under subparagraph (1), (2), or (3) above, but who is a citizen of the United States and absent from the state and residing outside the United States as described in chapter 21.1 of title 17. (2005)

The single FPCA card shall permit the person to request an absentee ballot for each primary and election ~~through the next two (2) regularly scheduled general elections for federal office~~ **through the next general elections for federal office or for the time period specified by federal law** in which the voter is eligible to vote. The FPCA card must be received by the local board of canvassers where the person last maintains his or her residence for voting purposes within the time frame for applying for absentee ballots (17-20-6.1). **(2012**)

Application for ballot. Notwithstanding any other provision of this chapter as to time and manner thereof, it shall be the duty of the applicant to cause the mail ballot application or the emergency mail ballot application, as the case may be, to be processed by the local board so that the applicant may receive the ballot, cast it, and cause delivery thereof to be made to the state board not later than nine o'clock (9:00) p.m. on the date of election (17-20-8). (2001)

The local board must maintain a separate list of names and addresses of all applications and their subscribing witnesses and a copy of the list must be made available to any person upon request (17-20-8).

Victims of domestic violence. Under the Address Confidentiality Program the victims of domestic violence **and members of their household** may apply for a mail ballot for all elections in a city or town using the designated address approved by the secretary of state. The board of canvassers cannot include the name and address of a program participant in any list of registered voters available for public inspection or copying except if requested by a law enforcement agency or directed by court order (17-28-5). **(2009)**

Application by permanently disabled or incapacitated. By signing an affidavit to that effect, a voter who is indefinitely confined because of physical illness or infirmity, or is disabled for an indefinite period, may request that an absentee ballot application be sent to him or her. The affidavit form must be furnished by the local board upon request. The envelope containing the absentee ballot application must be clearly marked as not forwardable. If an elector is no longer confined, he must notify the clerk of the local board. The clerk must remove the name of any voter from the mailing list upon receipt of reliable information that a voter no longer qualifies for the service. The voter must be notified of such action within five (5) days. The affidavit form and instructions must be mailed to the applicant along with a stamped return envelope addressed to the local board of canvassers (17-20-9).

Certification of applications. Upon determining the sufficiency of any application received, the local board must mark the application "accepted" and record all other required information on the application (17-20-10).

The local board shall also record the city or town code, and district information in the mailing label section of the mail ballot application. The local board shall also print or type the name of the elector and the complete mailing address in that section. If the local board does not accept the application, the local board shall return the application to the elector together with a form prescribed by the secretary of state specifying the reason or reasons for the return of the application (17-20-10). (2001)

Not later than 4:00 p.m. on the eighteenth (18th) day before the day of any election referred to in this chapter or within seven (7) days of receipt by the local board, whichever occurs first, the local board shall certify the applications to the secretary of state through the CVRS system as this procedure is prescribed by the secretary of state. (17-20-10). (2005)

Upon the certification of any mail ballot application to the secretary of state, the local board must enter on the voting list the fact that a mail ballot application has been certified **and shall cause the delivery of the certified mail ballot applications together with the signed certified listing in sealed packages to the state board of elections** (17-20-10). **(2006)**

Issuance of ballots. If a ballot is returned to the Secretary of State by the postal service as undeliverable, the Secretary of State must consult with the appropriate local board to determine the accuracy of the mailing address and re-mail the ballot to the voter using the corrected address provided by the local board. Otherwise, the ballot must be reissued by the Secretary of State

to the local board where the voter resides. The board must then attempt to notify the voter that the ballot has been returned as undeliverable (17-20-10).

Within two (2) business days of receipt by the local board, the board shall certify emergency mail ballot applications and shall cause the delivery of the emergency mail ballot applications and certification sheet in sealed packages to the state board of elections (17-20-10). **(2011)**

Custody of lists. The local board must safely keep in custody the copies of the certified applications and the returned certified lists until the first day in September in the second year after they were received (17-20-11).

Forms and supplies. All mail ballots, application forms, certified envelopes for enclosing the ballots, other envelopes and instructions are furnished and supplied by the secretary of state. The local board must print or stamp its address upon the application form and upon the return envelope (17-20-12).

Local supervision. The local board may appoint one (1) or more bi-partisan pairs of supervisors to attend each person who makes an application for a mail ballot and who requests that such a pair of supervisors be sent to his place of residence for the purpose of supervising or assisting the mail voter in casting his vote (17-20-14.1). The state board of elections appoints supervisors for hospitals, rest homes and convalescent homes within 20 days prior to the election (17-20-14). **(2011)**

Voting from the board of canvassers. The local board of canvassers must appoint as many supervisors as are necessary to supervise the casting of votes by persons using mail ballots, and to take acknowledgements or serve as witnesses. Every certifying envelope containing a mail ballot cast at a board of canvassers must have the signature of the voter notarized by an appointed person authorized by law to administer oaths or before two (2) appointed witnesses who must put their signatures on the form, and the envelope must be stamped by the local board to indicate the vote was in conformance with the law. The local board must transmit a list to the Board of Elections containing the names and signatures of people authorized to witness mail ballots (17-20-14.2). (2011)

Time of casting vote. No mail ballot will be counted unless it is received by the state board of elections not later than 9 p.m. local time on election day (17-20-16).

Unused ballots. Every mail voter must return any unused ballot to the state board of elections or to the local board before 9 p.m. on election day (17-20-25).

Counting of ballots. The state board of elections shall process and certify the mail ballots, then proceed to count the ballots **on election day** through the use of a central count optical scan unit. Local boards count the ballots only when a local election is held at a time other than in conjunction with a statewide election (17-20-26). Additional procedures are provided in Chapter 22 of the Election Laws (17-22-2). **(2006)**

Mail voting law. On or before the 15th day of September in any year in which an election is held, the secretary of state must send to the local boards an attested copy of Chapter 20 of the Election Laws (17-20-28).

Mail applicant voting in person. If a mail applicant re-establishes his right to vote in person by presenting himself at the local board on or before election day to surrender his mail ballot, the local board must restore his name to the voting list (17-20-29).

A mail applicant may also be permitted to vote in person if he executes and delivers to the local board an affidavit stating that he did not receive a mail ballot or that the ballot was lost or destroyed (17-20-29).

Immediately after the close of the polls, the local board must certify and deliver to the state board of elections the names and addresses of all persons restored to the voting lists, together with the affidavits and surrendered ballots received (17-20-29).

List of mail voters. The state board of elections, not later than thirty (30) days after an election, must prepare and mail to the local board a list of names of every voter of the town who voted by mail ballot (17-22-8).

FOREIGN ABSENTEE FEDERAL BALLOTS

These are restricted ballots and apply only to federal elections to select, nominate and/or elect candidates for president, vice president, presidential electors, members of the United States senate and members of the United States house of representatives (17-21.1-1).

Any person otherwise qualified pursuant to the election laws of this state, who is a citizen of the United States and is absent from this state and residing outside the United States, shall have the right to register absentee for, and vote by an absentee ballot in any federal election in this state, or any election district of this state, in which he was last domiciled immediately prior to his departure from the United States if (1) he has registered pursuant to the provisions of section 17-20-6.1; (2) he does not maintain a domicile, is not registered to vote and does not vote in any other state or election district of a state or territory or in any territory or possession of the United States; (3) he has a valid passport or card of identity and registration issued under the authority of the United States secretary of state; and (4) he is a United States citizen and has never lived in the United States but has a parent who is a qualified elector, then the person shall be eligible to register and vote in federal elections where his or her parent is a qualified elector (17-21.1-2). (2005)

PRESIDENTIAL PREFERENCE PRIMARIES AND PRIMARIES FOR THE ELECTION OF DELEGATES TO NATIONAL CONVENTIONS

Dates. A primary election for the election of delegates to the national convention for each political party and a presidential preference primary are held on the **fourth** Tuesday in **April 2012,** and every 4th year thereafter (17-12.1-1, 17-12.1-8). **(2011)**

Certification of petition. The petition papers of a presidential candidate, signed by at least 1,000 eligible voters, must be submitted on or before 4:00 p.m. of the ~~69th~~ **82nd** day before the presidential preference primary to the local board of the city or town where the signers appear to be voters. The petition papers must be checked, processed, and certified to the Secretary of State by the local boards before 4:00 p.m. on the ~~54th~~ **69th** day before the presidential preference primary.
When nomination papers have been duly certified by the appropriate local boards of canvassers, they shall be conclusively presumed to be valid, unless written objections to them are made as to the eligibility of the candidate or the sufficiency of the nomination papers or the signatures on them. All objections shall be filed with the state board of elections by 4 p.m. on the next business day after the last day fixed for local boards to file nomination papers with the secretary of state (17-12.1-4). **(2011)**

Number of signers required. The nomination papers of a candidate for delegate to a national convention must be signed, in the aggregate, by at least 150 **eligible** voters(17-12.1-6). **(2011)**

Checking and certification of nomination papers. Nomination papers of a candidate for delegate must be submitted on or before 4 p.m. of the ~~46th~~ **56th** day before the presidential preference primary to the local board of the city or town where the signers appear to be voters. The nomination papers must be checked, processed and certified to the secretary of state by the local board before 4 p.m. on the ~~40th~~ **53rd** day before the presidential preference primary. When nomination papers have been duly certified by the appropriate local boards of canvassers, they shall be conclusively presumed to be valid, unless written objections to them are made as to the eligibility of the candidate or the sufficiency of the nominations papers or the signatures on them. All objections shall be filed with the state board of elections by 4 p.m. on the next business day after the last day fixed for local boards to file nomination papers with the secretary of state (17-12.1-7). **(2011)**

The appropriate provisions of the election laws (Title 17) apply to Presidential Primaries and to Primaries for Election of Delegates to National Conventions unless they are clearly inconsistent with Chapter 12.1 (17-12.1-16).

CENTRAL VOTER REGISTER

Chief State Election Official. The secretary of state is designated as the Chief State Election Official under section 10 of the National Voter Registration Act of 1993 to be responsible for the coordination of the state of Rhode Island's responsibilities under such act (17-6-1.3). (2003)

According to Chapter 191 of the 2002 Public Laws, the secretary of state maintains a statewide central voter register. Local board of canvassers will have the responsibility and sole authority for any addition, correction or deletion of information from their local voting records. The office of the secretary of state, or the designee of the secretary of state, shall provide training and technical support for all local boards of canvassers in the operation and maintenance of their local voter registration system (17-6-1.2). (2002)

The secretary of state is authorized to issue rules and regulations relative to the central voter register, and local boards of canvassers are directed to comply with reasonable requests by the secretary of state for information to accurately maintain the central voter register (17-6-1.1).

The secretary of state must furnish without charge to the canvassing authorities of the cities and towns, lists of registrants pertaining to their respective cities and towns (17-6-8).

The registration lists must be available not later than June 1st (17-6-10).

CHAPTER 7

LICENSES

City and town clerks may refuse to grant or renew any license created under the ordinances of the city or town if the tangible personal property taxes are in arrears at the time of application or renewal (44-4-24).

ALCOHOLIC BEVERAGE LICENSES

The licensing of the sale of alcoholic beverages is controlled by the state, but local licenses are issued by the towns and cities in accordance with state law and subject to state regulation. Town and city councils having the licensing authority are constituted as license commissioners and the town or city clerk is the clerk of the license commissioners (3-5-15).

Notice and hearing on licenses. Before a license can be granted, notice must be given by advertisement published once a week for at least two (2) weeks in some newspaper published in the city or town where the applicant proposes to carry on his business or in some newspaper having general circulation in the city or town. The advertisement must contain the name of the applicant, the location of the proposed business, and the time and place of the hearing on the license. Notice of the application must also be given by mail to all owners of property within 200 feet of the place of business seeking the application. The notice must be given by the board, body or official to whom the application is made. **No notice need be given when a license holder applies for a temporary seasonal expansion of an existing liquor license** (3-5-17). The cost shall be borne by the applicant (3-5-17). The same notice must be given in cases of change of the licensed place or of the transfer of the license; provided, however, that notice by mail need not be made in the case of a transfer of a license without relocation (3-5-19). **(2007)**

Police details. If the licensee is required to hire a police detail and either has failed to pay outstanding police detail bills or to reach a payment plan agreement, the license board may prohibit the licensee from opening its place of business until the police detail bills are paid or a payment plan agreement is reached (3-5-21). (2011)

All retail licenses issued under Chapter 7–"Retail Licenses" must bear the signature, written by hand, of the clerk of the licensing board, body or officials issuing them (3-5-18). **(2010)**

Expiration date of licenses. Every license except retailer's Class F licenses and retailer's Class G licenses shall expire on December 1 after its issuance (3-5-8).

Premises covered. Not more than one retail license, except in the case of a retailer's Class E license, shall be issued for the same premises. Every license shall particularly describe the place where the rights under the license are to be exercised and beverages shall not be manufactured or kept for sale or sold by any licensee except at the place described in his or her license (3-5-9).

Certificate of payment of state taxes. Every licensee, upon filing an application for renewal or transfer of a license, must submit with the application a certificate executed by the state tax administrator that taxes due the state have been paid. No license can be renewed or transferred without the certificate (3-7-24).

Objection by adjoining property owners – Proximity to schools and churches. Retailers' Class B, C and I licenses cannot be issued to authorize the sale of beverages in any building when the owner of land within 200 feet of the building files an objection to the granting of the license, nor in any building within 200 feet of the premises of any school or place of public worship (3-7-19).

Appeals. Whenever the local board revokes or suspends a license, it must give notice, within twenty-four (24) hours, of its decision or order to the applicant. The decision or order cannot be suspended except by the order of the state liquor control administrator (3-7-21).

Annual reports. Boards, bodies or officials in towns or cities issuing alcoholic beverage licenses must annually, on or before December 1st, make a report to the department of business regulation (liquor control administrator). The report must state the number of licenses granted by them with the names and addresses of the licensees. It must also contain a description of the licensed places and the amount of money received for the licenses (3-5-27).

Uniform procedures. The department of business regulation is authorized to issue any orders and prescribe any forms to local licensing boards or authorities that will provide uniform procedures and forms in the processing, handling and reporting of license applications and disciplinary actions against licensees by local licensing boards or authorities (3-5-28).

Records. Copies of the records, duly certified by the secretary or clerk of the board, may be received in any court as evidence of the proceedings recorded; and the certificate of the clerk that it does not appear by the records that a person named in the certificate holds, or held at any named time, a liquor license shall be evidence of the fact stated (3-5-26).

Sales on Sundays and holidays. A Class C licensee may serve beverages on Sunday with the written approval of the local board of license, subject to the notice provisions of section 3-5-17. Class A license holders may open from no earlier than twelve noon (12:00 p.m.) to no later than six o'clock (6:00 p.m.) on Sundays, **unless the following Monday is a holiday which allows the holders to remain open until no later than nine o'clock (9:00 p.m.) the prior Sunday** (3-8-1). **(2012)**

Caterer's license. A caterer duly licensed by the Department of Health and the Division of Taxation shall be eligible to apply for a Class P license from the department of business regulation. The department of business regulation is authorized to issue all caterers' licenses. The license will be valid throughout this state as a state license and no further license will be required or tax imposed by any city or town upon this alcoholic beverage privilege (3-7-14.2). **[This change to the Class P license eliminates the Class F and Class F-1 licenses. The city or town clerks are no longer responsible for issuing caterers' licenses].** (2003)

Class F-2 license. A retailer's license, class F-2, authorizes the holder to keep for sale by auction alcoholic beverages on the premises or by televised auction for a specifically designated period, not to exceed 3 days. The license may be issued to religious organizations, Rhode Island non-business corporations, public corporations and political organizations only. The fee for the license is $35.00. The city or town clerk of a municipality in which a full time licensing board does not exist is authorized to issue this license (3-7-14.3). (1998)

Class T legitimate theater license. Legitimate theaters may apply for a Class T license which can be issued only by the local licensing authority. The definition of legitimate theaters has been expanded by recent legislation. The license authorizes the holder to sell beverages at retail and to deliver beverages for consumption on the premises when scheduled events relating to art, the legitimate theater or community artistic experiences are held, and also authorizes entertainment in conformity with local ordinances (3-7-16.3). **(2012)**

<u>Class AS license.</u> A retailer's Class AS license may be issued by the local licensing authority, and authorizes the licensee to sell at retail wines purchased from a Rhode Island licensed wholesaler, to be used for sacramental purposes only, to any duly ordained priest, minister or rabbi or to any church or religious society. The holder of a Class A license is also authorized to sell at retail wines to be used for sacramental purposes. The annual fee for the license is $50.00 (3-7-16.7). (2008)

<u>Renewal of licenses</u>. As a condition of license renewal, and as part of the license renewal application, each licensee must submit to their municipality information verifying that all persons who sell or serve alcoholic beverages, anyone serving in a supervisory capacity over those who sell or serve alcoholic beverages, anyone whose job description entails the checking of identification for the purchase of alcoholic beverages and valet parking staff and who have been employed by the licensee for more than sixty (60) days in the past year have completed a certified alcohol server training program within the last three years. **An Internet or computer-based alcohol server training program is eligible for certification** (3-7-6.1). **(2008)**

<u>Golf courses</u>. A club possessing a Class D or B-V license and operating a golf course may be authorized to sell alcoholic beverages to its members and guests from mobile wagons or carts for consumption on the golf course; provided that all such sales must be made within the confines of the golf course.

If the golf course shall be located in more than one contiguous city or town, then the other city or town, i.e. other than the one issuing the Class D or B-V license, may, upon application by the golf club, issue a Class D or B-V ancillary license, which shall permit sales from mobile wagons or carts upon that portion of the golf course located within the other city or town (3-7-11.1). (2005)

<u>CLOSING OUT SALES LICENSES</u>

Before a person can offer for sale a stock of goods, wares and merchandise under the description of "closing out sale," "going out of business sale," "liquidation," etc., he must first obtain a license to conduct such a sale from the clerk of the town or city in which he proposes to conduct the sale (6-14-3).

<u>Application for license</u>. The applicant for the license must make an application to the clerk in writing and under oath at least fourteen (14) days prior to the opening date of the sale showing all of the facts in regard to the sale. The application must specify the proposed period of time over which the sale is to continue. It must not exceed sixty (60) days. However, if it is made to appear upon sworn application (accompanied by an inventory of what remains unsold) to the town or city clerk, at any time during the sixty (60) day period, that all of the goods described and inventoried in the original application have not been sold, the town or city clerk may issue a supplemental license for a period of thirty (30) days only (6-14-4).

<u>Issuance of license</u>. If the town or city clerk is satisfied from the application that the proposed sale is of the character which the applicant desires to conduct and advertise, he may issue a license, upon payment of a fee of $100, together with a good and sufficient bond, payable to the town or city, in the penal sum of $1000 (6-14-6).

In case of a change in the ownership of the whole of the goods, wares and merchandise or of the entire balance in case a portion has already been sold, the new owner must obtain a license in the manner described above from there town or city clerk before he can conduct such a sale. However, any merchant who has been conducting a business in the same location where the sale is to be held for a period of at least one (1) full year, prior to the holding of the sale, is exempted from the payment of the fee and the filing of the bond (6-14-6).

Record of license application. The town or city clerk must endorse upon the application the date of its filing and must preserve it as a record of his office. He must make an abstract of the facts set forth in the application in a book kept for that purpose. The book must be properly indexed, containing the name of the person asking for the license, the nature of the proposed sale, the place where the sale is to be conducted, its duration, the inventory value of the goods to be sold and a general statement as to where the goods came from. He must make a notation in the book as to the issuance or refusal of the license applied for, together with the date of the same. He must endorse on the application the date the license applied for is granted or refused. A copy of the application must be forwarded by the city or town to the Attorney General's Office (6-14-7).

DOG LICENSES

Every owner or keeper of a dog must license the dog annually in the month of April in the office of the town or city clerk of the city or town where the owner or keeper of the dog resides. Before the license can be issued, the dog must have been inoculated against rabies for the period during which the license would be valid. The owner or keeper must pay $5.00 for the license to the town or city clerk. All licenses issued are valid in every town or city from the 1st day of May to the last day of April of the following year. Any person who becomes the owner or keeper of a dog during the year must license the dog within thirty (30) days. Every person, owning or keeping a dog not licensed and/or collared according to the provisions of law, shall be fined $10.00 to be applied to the support of the city or town. The fine is in addition to all other lawful fees. Any city or town may waive the fee to be charged to license guide dogs used by persons with disabilities (4-13-4). ***[Some cities and towns have separate provisions regarding dog licenses under Sec. 4-13-4.]*** No license is required for any dog under the age of six (6) months (4-13-9). (2003)

License information. Every owner or keeper of a dog applying for a license must furnish the town or city clerk with the following information: name and address of owner or keeper, and breed, sex, color and name of dog. The town or city clerk must assign a registered number to each dog licensed. He must also enter on the license the registered number, name and address of the owner or keeper, and breed, sex, color and name of the licensed dog. The town or city clerk must keep a record of all licenses issued (4-13-5).

Notice. The town or city clerk must annually, in the month of March, give notice by publication at least once in a newspaper having general circulation in the city or town of the time and place for issuing dog licenses (4-13-7).

Disposition of fees. Towns and cities may adopt ordinances or regulations concerning the use of the monies received for dog licenses. When no such ordinances or regulations are adopted, the town or city clerk must pay the monies received into the treasury of the city or town, retaining 50 cents for his own use for each license issued
(4-13-8).

Annual census of dogs. The town sergeant of each town, or special constables as the town council may appoint for that purpose, must annually in the month of April ascertain and make a list of the owners and keepers of dogs in the town. The list must be returned to the town clerk on or before the last day of May. The town sergeant or constable receives from the town treasury the sum of 20 cents for each dog listed. Within two (2) weeks thereafter, the town clerk must furnish to the town sergeant or to the constable a list of all dogs licensed for the current year and a list of those not licensed, with the names of the owners or keepers. The Town clerk must also post the list in at least three (3) public places in the town or publish the list in such other manner as the town council may direct (4-13-11).

Rabies. No city or town may register or license a pet that is not vaccinated for rabies. Proof of rabies vaccination must be a current, valid rabies tag for a dog or a rabies vaccination certificate for any species (4-13-31).

The duties imposed on town or city clerks in relation to dogs must be performed by the police commissioners, respectively, in the cities and towns where the board of police commissioners grant the dog licenses (4-13-14).

FISHING LICENSES

City and town clerks issue fishing licenses to qualified applicants upon the payment of a registration fee. The clerks perform this function as agents of the State Department of Environmental Management. Section 20-2-31 lists those persons who are exempted from some of the fishing license requirements.

License required. No person of the age 15 years or older shall take or catch any fish without having first obtained a license. A license is not required for a person fishing in any brook or pond running through or bordering upon land owned or leased by him and on which he is actually domiciled (20-11-1).

Application for license. Every person entitled to a license must file an application with any city or town clerk (or an authorized agent of the department of environmental management), properly sworn to, stating the name, age, occupation, place of residence, nationality, weight, height and color of hair and eyes of the applicant for whom the license is wanted. The applicant must also pay the fees provided by law (20-2-12).

Issuance of license. The city or town clerk must register the person and issue to him a license certificate in the form prescribed and upon a blank to be furnished by the department. The license, which must bear the name, age, occupation, place of residence, signature and an identifying description of the registrants, authorizes the person to fish in this state during those seasons and in those manners and according to those conditions as provided by law. Town and city clerks do not have the authority to issue lobster, commercial shellfish and commercial fishing licenses (20-2-2).

Records. The town or city clerk must record all licenses in books kept for that purpose, one (1) coupon of which must be retained as his record. The books are supplied by the department of environmental management sources and remain the property of the state. The books must be open to public inspection during the usual office hours of the clerk and are subject at all times to audit and inspection by the director of environmental management, by the director of administration or by their agents (20-2-3).

On the 1st Monday of every month, the town or city clerk must pay to the department of environmental management all monies received by him for licenses issued during the preceding month, except the recording fee, together with a receipted bill for fees retained (20-2-3).

By January 31st of each year, the town or city clerk must return to the department of environmental management all registration books used during the preceding year, including all unused and void certificates. The money collected is forwarded by the director of environmental management to the state general treasurer. The director must also furnish the general treasurer with a list of the number and kinds of registrations recorded by each town or city clerk during the month (20-2-3).

Endorsement of license. The license is not valid until it is endorsed by the licensee in his own handwriting (20-2-10).

Clerk's fee. The town or city clerk shall retain the sum of one dollar ($1.00) for issuing each license (20-2-4). (2002)

Fishing license fees. Every person required to have a fishing license must pay to the person from whom he procures the license a fee as follows:

-- Residents…….....$18.00 (2002)
-- Nonresidents.....……...$35.00 (2002)
-- Nonresident tourists (3 consecutive days).....$16.00

Fresh water fishing licenses expire on the last day of February of each year (20-2-15).

Combination fishing and hunting license. The town or city clerk may issue a combination fishing and hunting license to any eligible resident for a fee of $33.00. The combination license expires on the last day of February of each year (20-2-17). (2002)

HUNTING LICENSES

City and town clerks issue hunting licenses to qualified applicants upon the payment of a registration fee. The clerks perform this function as agents of the State Department of Environmental Management. Section 20-2-31 lists those persons who are exempted from some of the hunting license requirements.

License required. No person may hunt, pursue, take or kill any wild bird or animal in this state without having first obtained a hunting license. A license is not required for a person hunting on his own land or on land leased by him and on which he is actually domiciled, and which land is used exclusively for agricultural purposes (20-13-1).

Certificate of competency. Any person applying for a license for the first time must take a course of instruction in safe hunting practices and the use of firearms and/or bow and arrow formulated by the Department of Environmental Management. The department may designate the police departments of the towns and cities to give the instruction. Members and veterans of the armed forces are not required to obtain a certificate of competency (20-13-4).

Application for license. Every person entitled to a license must file an application with any city or town clerk (or an authorized agent of the department of environmental management), properly sworn to, stating the name, age, occupation, place of residence, nationality, weight, height and color of hair and eyes of the applicant for whom the license is wanted. The applicant must also pay the fees provided by law (20-2-12).

Issuance of license. The city or town clerk must issue a hunting license to any eligible person, upon application and the payment of the license fee. No license shall be granted to or possessed by any person under 15 years of age; provided, however, a junior hunting license may be obtained for persons age 12-14 years of age upon completion of a basic hunter's safety course. This person must hunt only in the immediate company of a qualified licensed adult 21 years of age or over (20-13-5). See 20-13-5 of the General Laws for persons who should not be issued or be in possession of a hunting license.

The license, which must be printed or stamped upon some durable material, must bear the name, age, occupation, place of residence and an identifying description of the licensee. The license expires on the last day of February following the date of issue and may be revoked within the discretion of the director of environmental management. It must plainly and conspicuously indicate upon its face the year of issuance (20-13-5).

Records. The town or city clerk must record all licenses in books kept for that purpose, one (1) coupon of which must be retained as his record. The books are supplied by the department of environmental management and remain the property of the state. The books must be open to public inspection during the usual office hours of the clerk and are subject at all times to audit and inspection by the director of environmental management, by the director of administration or by their agents (20-2-3).

On the first Monday of every month, the town or city clerk must pay to the department of environmental management all monies received by him for licenses issued during the preceding month, except the recording fee, together with a receipted bill for fees retained (20-2-3).

By January 31st of each year, the town or city clerk must return to the department of environmental management all registration books used during the preceding year, including all unused and void certificates. The money collected is forwarded by the director of environmental management to the state general treasurer. The director must also furnish the general treasurer with a list of the number and kinds of registrations recorded by each town or city clerk during the month (20-2-3).

Endorsement of license. The license is not valid until it is endorsed by the licensee in his own handwriting (20-2-10).

Clerk's fee. The town or city clerk shall retain the sum of one dollar ($1.00) for issuing each license (20-2-4). (2002)

Hunting license fees. Every person required to have a hunting license must pay to the person from whom he procures the license a fee as follows:

-- Residents.....$18.00 (2002)

-- Nonresidents.....$45.00 (2002)

-- Nonresidents (3 consecutive days).....$16.00

A nonresident landowner may obtain a hunting license at the resident fee if the real estate owned is assessed for purposes of taxation at a valuation of not less than $30,000. Hunting licenses expire on the last day of February of each year (20-2-16).

ITINERANT VENDORS' LICENSES

An itinerant vendor is a person who engages in a temporary or transient business, either in one locality or in traveling from place to place, selling goods, wares and merchandise and who, for this purpose, hires, leases or occupies a building for the exhibition and sale of the goods (5-15-1). Itinerant vendors must be licensed by the state and by the locality in which a sale is to be conducted. Before itinerant vendors and hawkers and peddlers are issued licenses, they must provide proof that they have been issued a permit to make sales at retail by the State Division of Taxation (5-11-18, 5-15-5).

At least 14 days prior to selling under the state license, the itinerant vendor must exhibit it to the clerk of each city or town where he proposes to make sales. The local license fee is $100 in cities and towns having less than 15,000 inhabitants, while the local license fee in cities and towns having more than 15,000 inhabitants is $350. The itinerant vendor must also make an application in writing and under oath showing all the facts in regard to the sale including an inventory of the goods to be sold and all details to fully identify the goods (5-15-5). When the fee and all other license fees chargeable on local sales are paid, the town or city clerk must record the state license of the itinerant vendor in full, endorse on it the words "Local License Fees Paid," and affix his official signature and the date of the endorsement. The clerk then issues a local license authorizing sales within the limits of the town or city (5-15-5).

The files and records of the town or city clerk must be in a convenient form and open for public inspection (5-15-4).

KENNEL LICENSES

The owner or keeper of thoroughbred dogs may apply to the clerk of the town or city where the kennel is located for a kennel license. The application must state the name or names of the owner and keeper of the kennel, the proposed location of the kennel and the number of dogs to be kept in the kennel. It must also state that the dogs are to be kept for breeding and stud purposes only.

If the town or city clerk deems that the use and operation of the kennel at the definite location specified in the license would not constitute a public nuisance, he must issue a kennel license, upon the payment by the applicant of $25.00 for the license. The license is valid for a period not exceeding one (1) year and expires on the 1st day of April. No dog licenses are required for dogs kept in kennels (4-13-10).

VICIOUS DOGS

Registration. Before any dog that has been declared vicious can be licensed by any city or town, the owner or keeper of the vicious dog must present to the city or town clerk (or other licensing authority) proof that the owner or keeper has procured liability insurance in the amount of at least $100,000. The insurance must cover any damage or injury which may be caused by the vicious dog during the 12 month period for which licensing is sought. The insurance policy must contain a provision requiring the city or town, where the dog is licensed, to be named as additional insured. The sole purpose of this provision is for the city or town clerk (or other licensing authority) to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy (4-13.1-3). (2004)

The owner or keeper of a vicious dog, at his own expense, must have the licensing number assigned to the vicious dog, or such other identification number as the city or town clerk (or other licensing authority) shall determine, tattooed upon the vicious dog. The licensing number must be noted on the city or town licensing files for the vicious dog, if it is different from the license number. A microchip may be used in lieu of a tattoo (4-13.1-3). (2004)

The owner or keeper of a vicious dog must notify the police department or the dog officer within two (2) hours if the vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died. If an owner or keeper moves, he or she shall notify the dog officer of the city or town in which he/she resides and the dog officer of the city or town in which he or she is to reside. It shall be unlawful for the owner or keeper to sell or give away any dog declared vicious (4-13.1-3). (2004)

Fees. Every city or town must enact an ordinance requiring the licensing of dogs within their jurisdiction at a fee not to exceed $10. In addition, each city or town must charge an additional fee of $2.00 for each license, which fee must be used exclusively by the cities and towns for the enforcement of laws pertaining to animals (4-13.1-9).

Registration drives. It shall be the duty of each city and town to conduct a licensing drive annually after September 1, l985 in order to ensure compliance with the provisions of chapter 13.1 of title 4 of the General Laws dealing with the regulation of vicious dogs (4-13.1-10).

CHAPTER 8

OTHER DUTIES AND RESPONSIBILITIES

ACKNOWLEDGMENT OF INSTRUMENTS

The acknowledgment of any instrument required by any statute of this state to be acknowledged within this state must be made before any state senator, any state representative, judge, justice of the peace, clerk or assistant clerk of the superior court, mayor, notary public, town clerk or recorder of deeds (34-12-2).

ACUPUNCTURE LICENSE

Every person holding a license authorizing him to practice acupuncture or to serve as an acupuncture assistant in this state must record the license with the city or town hall in the city or town where his office and residence are located (5-37.2-14).

ADMINISTERING OATHS

Town clerks may administer oaths within the respective towns for which they may be elected or appointed to office (36-2-2).

Unless some other form of engagement is specifically prescribed by law, every person elected to any town or city office must take the following engagement, before he can act in an official capacity, before some person authorized to administer oaths:

> You (naming the person) do solemnly swear (or affirm) that you will be true and faithful unto this state, and support the laws and constitution thereof, and the constitution of the United States; and that you will well and truly execute the office (naming the office) for the term for which you have been elected, or until another be engaged in your place, or until you be legally discharged therefrom; so help you God (or this affirmation you make and give upon peril of the penalty of perjury) (45-4-11).

The officer administering the oath must make and deliver to the officer engaged a certificate of the taking of the oath (45-4-12).

APPEALS FROM TOWN COUNCIL ACTIONS

Any person aggrieved by an order or decree of a city or town council may appeal to the Superior Court (45-5-16). The appeal must be claimed within forty (40) days by filing with the town or city clerk a written claim of appeal and by paying the lawful fees for a copy of the record of the proceeding appealed from (45-5-17).

ARCHITECTS

The State Board of Examination and Registration of Architects may mail annually a copy of a roster of architects to city and town officials (5-1-6). (2000)

ASSIGNMENT OF FUTURE WAGES

No assignment of future wages or earnings is valid, except as between the parties, unless it is recorded within five (5) days after it is signed by the assignor in a book to be kept for that purpose in the office of the clerk of the city or town in which the assignor resides. If the assignor is not a resident of the state, the assignment must be recorded in the city or town in which he is employed (28-15-5).

ASSUMED NAMES

No person can do business in this state under any name other than his real name unless he has filed in the office of the town or city clerk a certificate stating the name under which the business is to be conducted (6-1-1).

The town and city clerks must keep alphabetical indexes of all persons filing these certificates and of all names or styles assumed. The town and city clerks receive a fee of $10.00 for indexing and filing the certificates (6-1-2).

AUDIT REPORTS

Each municipality and regional school district in the state prior to the close of the fiscal year is required to have an annual post-audit of its accounts by an independent certified public accountant. School districts which are part of the primary government of a municipality shall be included in the municipality's post audit and shall not be required to obtain a separate post audit (45-10-4). The city or town clerk must notify the state director of ~~administration~~ **revenue** and the auditor general when certified public accountants are engaged to perform the audit. The notice must be sent by registered or certified mail no later than the 60th day prior to the close of the municipality's fiscal year. If such a notice is not received by the state director of ~~administration~~ **revenue** he shall notify the city or town by registered or certified mail of their failure to notify. Within 30 days cities and towns must notify the director of the engagement of accountants. Failure to be notified within the 30 days permits the director to notify the city or town of the withholding of state funds pursuant to 45-10-12 (45-10-8). **(2008)**

The city or town clerk must file a duplicate copy of the audit report with the state director of ~~administration~~ **revenue** and state auditor general within six (6) months after the close of the municipality's fiscal year.

The state director of ~~administration~~ **revenue** must immediately, with the concurrence of the state auditor general, notify the city or town clerk and the treasurer if the municipality fails to file a report or fails to file a satisfactory report according to the provisions of law or fails to provide the notice of engagement of accountant(s) (45-10-12). **(2008)**

CERTIFICATE OF APPOINTMENT OF HOUSING COMMISSIONERS

The mayor must file with the city clerk a certificate of the appointment or reappointment of a commissioner (45-25-10). In the event of the removal of a commissioner, the mayor or town council must file in the office of the city or town clerk a record of the proceedings together with the charges made against the commissioner and the findings thereon (45-25-14).

CHIROPRACTORS

Certificates of the state director of health issued to persons to practice chiropractic or physiotherapy must be filed for registration by the holder of the certificate in the office of the clerk of the city or town where he resides (5-30-10).

CUSTODY OF STATE DOCUMENTS

Copies of certain state reports and documents are sent to the town clerk for his use and for the use of other town officials and the public. These include:

One (1) copy of the annual report of the Department of Environmental Management (2-1-6).

One (1) copy of the annual proceedings of the General Assembly (43-2-5).

DISTRICT MANAGEMENT AUTHORITIES

Any district management authority, created under Chapter 45-59 of the General Laws, will be automatically dissolved and the designation of a management district will be automatically terminated at the end of the third full fiscal year after its creation and designation and after it has actually commenced providing services hereunder unless the continuance of the existence of the district management authority and the designation of the district is approved in writings which are filed with the clerk of the municipality within which the management district is located and are signed by persons who own real property located within the district and within any subdistrict constituting, in the aggregate, not less than sixty percent (60%) of the aggregated assessed valuation of all real property, not exempt from taxation by law (45-59-22). (2001)

DOG & CATS

All fines collected for violations of the law mandating the spaying and neutering of dogs and cats adopted from releasing agencies must be remitted to the town clerk or city clerk of the municipality where the adopting party of the dog or cat resides (4-19-19(c).

All fines collected for violations of the law mandating the identification of cats must be remitted to the town clerk or city clerk of the municipality where the violation was issued (4-22-7).

Each city and town is required to collect a $1.00 surcharge on each dog license issued by the municipality. The revenue generated by this surcharge shall be deposited in the respective city's and town's spay/neuter account (4-24-9). (2006)

All fines collected for violations of the permit provisions of the permit program for cats must be deposited in the spay/neuter account of the city or town where the violation occurred (4-24-10). (2006)

EMERGENCY MANAGEMENT

An executive order or proclamation issued under the "Rhode Island emergency management act" must be promptly filed with the city and town clerks in the area to which it applies (30-15-9). (2000)

Any order or proclamation declaring, continuing or terminating a local disaster emergency must be given prompt and general publicity and must be filed promptly with the city or town clerk (30-15-13).

ENERGY CRISIS

Under the State Energy Crisis Management Act, the Governor may declare the existence of an energy crisis. The declaration, which must fully describe the nature of the crisis, must be filed with the Secretary of State and the city and town clerks in the areas affected (42-60-5).

ESTRAYS

When a deputy surveyor of highways of a town is appointed for the purpose of impounding animals at large on the public highways, a copy of the appointment must be filed in the office of the town clerk (4-15-3). A notice of the impoundment must be posted at or near the office of the town clerk (4-15-9).

A person who finds cattle, horses, sheep or hogs doing damage on his land may take them as stray animals and notify the town clerk within two (2) days (4-16-1). The town clerk must post three (3) notices, attested under his hand, describing the natural and artificial marks of the animal. One (1) of the notices must be posted in some public place in the town and the other two (2) in some public places in the several adjoining towns. The town clerk must also have the notices published in one (1) of the newspapers in the several adjoining towns (4-16-2).

If the owner does not appear within thirty (30) days, the person finding the animal may go to the town clerk with two (2) electors of the neighborhood who are authorized by the town clerk to make a faithful and true appraisal of the animal. The finder may have the animal by paying the town clerk the appraised value less the incidental costs. If the amount is not paid, the animal must be sold at public auction under the direction of the town clerk for the payment of the charges (4-16-6).

The town clerk must keep a fair record of all his proceedings regarding estrays, and must pay into the town treasury immediately on receipt all money received. The town clerk receives a fee of 25 cents for every notice posted up or printed and every certificate issued (4-16-9).

EXCAVATIONS

Whenever a public utility files an application with the state department of transportation for permission to excavate a state-maintained road in order to extend its service, the department must send a notice by certified mail to the town or city clerk of the municipality in which the excavation is to take place (37-5-2).

EXPLOSIVES PERMIT

The State Fire Marshall issues permits to use explosives. Upon issuing such a permit, the Fire Marshall must immediately forward a copy of each permit to the city or town clerk in the city or town where the work is to be performed. The city or town clerk is responsible for notifying local government officials and/or public safety officials of impending blast (23-28.28-6).

If the State Fire Marshall issues an emergency permit to use explosives, the applicant must hand deliver, immediately upon issuance by the State Fire Marshall, a copy of the permit to the city or town clerk in the city or town in which blasting is to be done (23-28.28-7).

FINANCIAL TOWN MEETINGS

Notice. The town clerk gives notice of a legal meeting of the voters qualified to vote upon any proposition to impose a tax or for the expenditure of money (45-3-5).

The town clerk issues the warrant directed to the town sergeant or one (1) of the constables of the town, or in the event that the town sergeant or a constable is not available, to any elector of that city or town designated by the town or city clerk, who is required to post a notice, at least seven (7) days before the meeting, in three (3) or more public places. The notice must give the time and place of the meeting and must state the business to be transacted (45-3-8).

No vote can be passed in any such meeting concerning the disposing of the town's land or the making of a tax unless special mention is made and notice given in the warrant issued for the warning of the meeting (45-3-12). The notice must be substantially in the form provided in 45-3-12. See also 16-3-9 regarding the establishment of regional school districts.

Special Financial Town Meetings. Special financial town meetings must be called by the town clerk upon the resolution of the town council or whenever 10% of the electors make a request in writing and direct it to the town clerk (45-3-6). The consent of the town council is required if any subject proposed for consideration has been acted upon by the town at any time within the previous six (6) months (45-3-7). The town clerk must cause the electors to be duly notified of the time and place of the meeting, and of the business to be transacted (45-3-6). At all special meetings only the business stated in the warrant may be acted upon (45-3-9).

Records. The town clerk is ordinarily the clerk of the financial town meeting. A copy of the record of the proceedings of the meeting, certified by the town clerk, is evidence of the action that was taken. The certificate of the town clerk that no town meeting has been held to consider a particular subject, or that no vote of the town has been taken upon a particular subject is evidence of that fact (45-3-22).

Open meetings. All town meetings must be open to the public, including representatives of the press and news media. In case of space constraints, voters must be admitted to the meetings before non-voters. Non-voters may be seated or assigned to a separate areas as indicated by the moderator (45-3-26).

Voting booths. Upon request of a town or district moderator charged with conducting a financial town meeting or regional school district meeting, the State Board of Elections must furnish each meeting with 1 computerized voting machine a year, and voting booths and ballots marked “yes” and “no”, at the state’s expense. The request, which must be delivered not later than 15 days prior to the meeting, must indicate the number of ballots needed and the number of anticipated voters (17-19-4.2). (1998)

FIREMEN AND POLICEMEN COMPENSATION LIEN

A written notice containing the name and address of the employee, the date that the employee became wholly or partially incapacitated, the name and location of the employer, and the name of the person, firm or corporation alleged to be liable to the employee for the injuries received or sickness contracted must be filed in the office of the city or town clerk where the fireman or policeman is employed (45-19-1.3).

The city or town clerk, in a suitable well-bound book called the "lien docket," must enter the name of the employee, the name of the person, firm or corporation alleged to be liable for the injuries sustained or sickness contracted, the name of an insurance carrier (if known at the time of filing of the notice) and the date that the injury was sustained or the sickness contracted. This information must be indexed in the name of the employee and in the name of the insurance carrier, if known at the time of filing of the notice (45-19-1.6).

HEALTH AND SAFETY REGULATIONS

Removal of filth, nuisance, refuse or solid waste. Any city or town council may order the owner or occupant of any premises, within twenty-four (24) hours after the service of notice, to remove at his own expense any nuisance, refuse, solid waste, source of filth or filth found on the premises (23-19.2-4). The notice must be in writing and signed by the city or town clerk or designee (23-19.2-5).

Lien. Any expenses not paid within thirty (30) days after notice shall be a lien against the property and shall be recorded in the land evidence records (23-19.2-6).

Removal of combustible materials. Whenever an authority having jurisdiction, is forced to remove combustible materials from certain premises, they must cause notice in writing of the cost and expenses of removal to be given to the occupant of the premises. They must also certify the cost and expenses of removal to the city or town clerk (23-28.5-2).

HIGHWAY PROJECTS

Whenever a city or town council, by resolution, proposes the construction or repair of a local highway as a federal aid project, the city or town clerk must forward a certified copy of the resolution to the state director of transportation (24-4-3).

HOME RULE CHARTERS

Duplicate certificates of a home rule charter adopted and any amendments approved must be signed by a majority of the canvassing authority. One (1) of the certified copies must be deposited in the office of the secretary of state. The other certified copy must be recorded in the records of the city or town and then must be deposited among the archives of the city or town (State Constitution, 13th Amendment, Section 10).

HOSPITAL LIENS

A written notice containing the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the party alleged to be liable to the injured person must be filed in the office of the city or town clerk in which the hospital is located (9-3-5). The city or town clerk, in a suitable well-bound book called the "hospital lien docket," must enter the name of the injured person, the name of the party alleged to be liable for the injuries, the name of the insurance carrier, the date of the accident, and the name of the hospital making the claim. This information must be indexed by the name of the injured party, by the name of the hospital and by the name of the insurance carrier (9-3-8).

INTERLOCAL COOPERATION

An agreement made pursuant to the Rhode Island Interlocal Cooperation Act must be filed with the keeper of local public records and with the secretary of state (45-40.1-5).

JURORS

All persons over 18 years of age who are qualified electors of any town or city shall be liable to serve as jurors (9-9-1).

List of qualified jurors. The list of qualified electors of each town and city as made up by the board of canvassers at its last meeting prior to the Tuesday after the first Monday in November in each even-numbered year shall be conclusive evidence of the liability of each elector to serve as a juror (9-9-1).

The jury commissioner must notify the clerk of the local board of canvassers of each particular city or town when it appears that a person on a list of qualified jurors does not reside at the address on the list. The board of canvassers, after due notice to the person, must challenge the listing, and after a hearing, may remove that person from the list (9-9-1). See 9-9-3 for persons exempt by virtue of their office or profession.

NOTE: Sections 9-9-8, 9-9-9, 9-9-12, 9-9-14.1, 9-9-15, 9-9-16 and 9-9-21 were repealed by Chapter 13 of the 1992 Public Laws.

MILITARY DISCHARGES

A certificate of the honorable discharge of any soldier, sailor, airman or marine from the military, naval, air or marine service of the United States may be recorded in the office of the city or town clerk. The city or town clerk must record the certificate upon presentation without the payment of any fee (30-18-1).

MOVERS

All persons, firms or corporations owning or operating a moving van or furniture van must make a report of their activities to the town or city clerk of the city or town in which household goods, chattels or personal effects are located. If the removal is from one (1) town or city to another, the report must be filed with the clerk of the city or town from which the household goods, chattels or personal effects are moved (5-17-1).

The reports must be made within ten (10) days after the removal on blanks furnished by the state director of labor. The city or town clerk must properly keep the reports on file in his office in a register or by other suitable methods for a period of at least six (6) years, after which the reports may be destroyed (5-17-2).

MUNICIPAL BONDS

When municipal bonds or notes need to be repaired or replaced due to damage, loss or destruction, the mayor, the city clerk and the city treasurer of every city and the president of the town council, the town clerk and the town treasurer of every town are constituted boards for the purpose of authorizing duplicate bonds (45-12-12).

MUNICIPAL EMPLOYEES RETIREMENT SYSTEM

Whenever a city or town council, by ordinance or resolution, accepts the provisions of the municipal employees retirement system (General Laws: Title 45, Chapter 21), the city clerk or the moderator of the financial town meeting must forward a certified copy of the ordinance or resolution to the state retirement board.

The ordinance or resolution must set forth the group or groups of employees to be included in the system (45-21-4). The same procedure is followed by a city or town to withdraw from the retirement system (45-21-5).

The procedure for accepting and withdrawing from the optional retirement plan for policemen and firemen is the same as that used for the municipal employees retirement system (45-21.1-3).

NOTARIES PUBLIC AND JUSTICES OF THE PEACE

Any qualified elector of the state desiring to be appointed a notary public or a justice of the peace must make a written application to the governor over his own signature. The applicant must state that he is a qualified elector. The town clerk in the town in which the applicant claims a right to vote must certify as to the applicant's qualification as an elector of the state. The city or town clerk must be satisfied that the applicant for appointment to the office of notary public or justice of the peace can speak, read and write the English language and has sufficient knowledge of the powers and duties pertaining to the office. A member of the Rhode Island bar, **and certified public accountants,** regardless of residence, shall be appointed a notary public upon application and presentment of a certified copy of the certificate of admission to the bar **or certificate of public accountancy** (42-30-5). **(2012)**

Every town and city clerk, clerk of the board of canvassers, board of canvassers registrar, and city or town council member has the power to act as a notary public during the period for which they have been elected or appointed. Although they are not required to pay the commission fee, such office holders must complete the certificate of engagement as set forth in 42-30-4 (42-30-14). (2001)

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record (42-127.1-11). (2000)

OPEN MEETINGS

Every meeting of all public bodies must be open to the public (42-46-3). See 42-46-5 for a list of meetings which may be held closed to the public.

No meeting of members of a public body or use of electronic communication, including telephonic communication and telephone conferencing, shall be used to circumvent the spirit or requirements of this chapter. **Provided that a member who has a disability as defined in chapter 87 of title 42, who cannot attend meetings solely by reason of a disability, and cannot otherwise participate in the meeting without the use of electronic communication or telephone communication as reasonable accommodation, may participate by use of electronic communication or telephone communication in accordance with rules and regulations established by the governor's commission on disabilities** (42-46-5(b). **(2007)**

Closed meetings. By open call, a public body may hold a meeting closed to the public upon an affirmative vote of a majority of its members. The vote of each member on the question of holding a meeting closed to the public and the reason for holding a closed meeting and a statement specifying the nature of the business to be discussed must be recorded and entered into the minutes of the meeting. No public body shall discuss in closed session any public matter which does not fall within the citations to section 42-46-5(a) referred to by the public body in voting to close the meeting, even if discussions could otherwise be closed to the public (42-46-4). (2005)

All votes taken in closed sessions shall be disclosed once the session is reopened; provided, however, a vote taken in a closed session need not be disclosed for the period of time during which its disclosure would jeopardize any strategy, negotiation or investigation undertaken pursuant to 42-46-5(a). (1998)

Notice. All public bodies must give written notice of their regular scheduled meetings at the beginning of each calendar year. The notice must include the dates, times and places of the meetings; and shall be provided to members of the public upon request and to the secretary of state at the beginning of each calendar year. Public bodies must give such supplemental written public notice of a regular or rescheduled meeting within a minimum of 48 hours before the date. This notice must include the date the notice was posted, the date, time and place of the meeting and a statement specifying the nature of the business to be discussed. Copies of the notice must be maintained by the public body for a minimum of one year (42-46-6). (2003)

A school committee may add items for informational purposes only, pursuant to requests submitted in writing by members of the public during the public comment session of the school committee's meeting. Informational items may not be voted upon unless they have been posted in accordance with the provisions of this section. **School committees are no longer required to publish the public notice in a newspaper of general circulation in the school district. This requirement was eliminated** (42-46-6). **(2011)**

Written notice must at least include posting a copy of the notice at the principal office of the public body holding the meeting and in at least one (1) other prominent place within the governmental unit. If no principal office exists, notice must be posted at the building in which the meeting is to be held as well as in one (1) other prominent place within the governmental unit. Public notices are also required to be filed with the secretary of state, and must be electronically transmitted to the secretary of state in accordance with rules and regulations which are promulgated by the secretary of state (42-46-6). (2003)

Minutes. All public bodies must keep written minutes of all their meetings. The minutes must include, but need not be limited to: (1) the date, time and place of the meeting, (2) the members of the public body recorded as either present or absent, (3) a record by individual members of any vote taken, and (4) any other information relevant to the business of the public body that any member of the public body requests be included or reflected in the minutes (42-46-7).

A record of all votes taken at all meetings of public bodies, listing how each member voted on each issue, shall be a public record and shall be available, to the public at the office of the public body, within two weeks of the date of the vote. The minutes shall be public records and unofficial minutes shall be available, to the public at the office of the public body, within 35 days of the meeting or at the next regularly scheduled meeting, whichever is earlier. This does not apply when disclosure would be inconsistent with sections 42-46-4 and 42-46-5 or when the public body by majority vote extends the time period for the filing of the minutes and publicly states the reason (42-46-7).

The minutes of a closed session must be made available at the next regularly scheduled meeting unless the majority of the body votes to keep the minutes closed pursuant to 42-46-4 and 42-46-5 (42-46-7).

A notice, prepared by the attorney general, advising citizens of their rights under the state's Open Meetings Law must be posted in a prominent location in each city and town hall (42-46-12).

ORDINANCES

All ordinances, bylaws and regulations must be printed and published in such manner as the town council shall direct. The city or town clerk must deliver at least one (1) copy of all ordinances, including amendments, to the state law library and the state library within ten (10) days after being printed or published (45-6-7).

In lieu of newspaper publication, advance notice of the proposed adoption, amendment, or repeal of any ordinance or regulation by a municipality may be provided via electronic media on a website maintained by the office of the secretary of state (45-6-1). **(2008)**

PETITIONS

Local liquor option. When a petition signed by not less than 15% of the qualified electors in a town is lodged, at least twenty (20) days prior to a general election, with the clerk of the board of canvassers and registration, the clerk must insert a provision in the town meeting warrant warning the voters that a vote will be taken to determine (1) whether licenses for the sale of alcoholic beverages will be issued in the town, and (2) whether retailers' class C beverage licenses will be issued in the town (3-5-2).

Home rule charter action. Under Article 13 of the state constitution, cities and towns are given the power to adopt a home rule charter. Action to adopt a charter may be initiated by a petition signed by 15% of the qualified electors of a city. In a town the petition must be signed by 15%, but not less than one hundred (100) in number, of those persons qualified to vote on any proposition to impose a tax or for the expenditure of money. The petition must be filed with the city or town council. It is then referred to the canvassing authority which must determine the sufficiency of the petition within ten (10) days of its receipt. The canvassing authority must certify the sufficiency or insufficiency of the petition to the city or town council (Section 6, Article 13).

Accounting systems. A city or town council or a financial town meeting may by vote petition the state director of ~~administration~~ **revenue** for the installation of an accounting system (45-10-1). The town or city clerk must then forward by registered or certified mail to the director of ~~administration~~ **revenue** and to the city or town treasurer a certified copy of the vote (45-10-2). **(2008)**

Housing authorities. Any twenty-five (25) qualified voters of a town and any twenty-five (25) residents of a city may petition the city or town council for the organization of a housing authority (45-25-4, 45-26-2).

When the petition is filed, the city clerk must give notice of the time, place and purpose of a public hearing at which the council will determine the need for an authority in the city. The notice must be given at least ten (10) days preceding the public hearing by publishing the notice in a newspaper having general circulation in the city or by posting the notice in at least three (3) public places within the city (45-25-4).

In a city, if the petition is denied by the council, a new petition may be presented every three (3) months (45-25-6).

If the city or town council determines that there is a need for an authority, they must adopt a resolution to that effect (45-25-7, 45-26-3).

PUBLIC HEALTH

The state director of health must make inquiry from time to time of the city and town clerks and practicing physicians in relation to:

1. the prevalence of any disease, or knowledge of any known or generally believed source of disease or causes of general ill health;

2. acts for the promotion and protection of the public health;

3. diseases among domestic animals in the city or town.

The city and town clerks and practicing physicians, in reply to inquiries by the state director of health, must give any information which they are aware of regarding these facts and circumstances (23-1-2).

REVALUATION CONTRACTS

Within ten (10) days after a city or town executes a contract for the revaluation of property, the city or town clerk must submit a duly authorized and certified copy of the copy to the department of ~~administration~~ **revenue** (44-5-50). **(2008)**

STATE TAXES

When any tax is ordered by the General Assembly to be assessed and levied on the inhabitants or ratable estates within the state, and no special provision is made in the act for ordering the tax, the secretary of state must send a certified copy of the act imposing the tax to the town clerk of every town, who must notify the assessors and deliver the copy to them (44-6-1). The assessors, having completed the assessment, must date, sign and deposit the assessment in the office of the town clerk, who must send a copy of the assessment to the general treasurer of the state, with the names of the town treasurer and tax collector and their post office address (44-6-3).

TAX ROLL AND ASSESSMENT

The local tax levy must be applied to the assessment roll and the resulting tax roll must be certified by the assessors to the city or town clerk, town treasurer or tax collector , **and to the Department of Revenue, Division of Municipal Finance not later than the next succeeding August 15**(44-5-22). **(2011)**

When the assessors complete the assessment, they must date and sign it and then deposit it in the office of the town clerk (44-5-32). The town clerk must make a copy of the assessment and deliver it to the town treasurer (44-5-33).

Whenever any town elects its town treasurer as collector of taxes, the town clerk must issue the warrant for the collection of taxes to the town treasurer as collector of taxes (44-5-34).

The excise tax levy must be applied to the excise assessment roll and the resulting tax roll must be certified by the assessors to the city or town clerk, town treasurer, or tax collector not later than the next succeeding June 15 (44-34-3).

TEMPORARY DISABILITY INSURANCE

Cities and towns seeking to become employers under the provisions of the Rhode Island temporary disability insurance act must send a certified copy of a resolution or act of the city or town council to the state director of employment security. The resolution or act must be passed in accordance with the ordinances of the city or town (28-39-3.2).

TOWN COUNCIL VACANCIES

Whenever from any cause there shall be vacancies in the town council of any town, so that there shall not be sufficient members to form a quorum, the town clerk must call a special town meeting in the manner provided by law for calling special town meetings, at which meeting, or at any subsequent meeting called for that purpose, the vacancies shall be filled in the manner provided for the election of such officers (45-4-16).

TOWN SERGEANT AND CONSTABLES

If the District Court orders the disqualification of any town sergeant or constable from serving or executing any writ or process issuing from the District Court, the court must send a certified copy of the order to the clerk of the city or town from which the sergeant or constable was appointed or elected, or to the clerk of the board appointing the constable if appointed by any board (45-16-11).

TREE WARDENS

The city or town clerk must notify the Department of Environmental Management of the appointment by the mayor or town council of a tree warden. The department's approval of the appointment must be certified to the city or town clerk before the appointment can become effective. If the department disapproves the appointment, it must notify the city or town clerk. The same procedure must be followed until an appointment is approved (2-14-2).

VACCINATIONS

When the town council employs physicians to provide vaccinations against contagious diseases, the physicians must deposit in the town clerk's office a book, in which they have recorded in a fair and legible hand, the name and age of every person vaccinated by them; and also any other remarks and observations (23-6-5). The town clerks must safely keep the books for the accommodation of the physicians and others, without any compensation, and must deliver the books over to their successors; the town clerks may charge lawful fees for searching the records or for any copies (23-6-6).

WATER SUPPLIES

No water company, supplier or water utility regulated by the state public utilities commission shall be allowed to file its rate schedules or notice of changes in rates unless it also files a statement with the public utilities commission. Copies of those statements must be filed with the city and town councils of these cities and towns serviced by the utility (39-3-12.1).

Any person maintaining a public water supply must submit reports of operation as may be requested by the State Department of Health. Copies of all such reports must also be supplied to the cities and towns serviced by the supplier (46-13-11).

WELL DRILLERS

{ The state director of environmental management must prepare a roster of all registered well drillers and pump installers and distribute the roster annually to the local building inspector and the town clerk of each town (46-13.2-4). Repealed } **(2012)**

WORKMEN'S COMPENSATION

When a city or town accepts the provisions of the workmen's compensation act, the city or town clerk must file a certified copy of the vote of acceptance with the state director of workers compensation. If the vote of acceptance is subsequently rescinded, a certified copy of the rescission must be filed with the state director of workers' compensation within a specified period of time (28-31-1).

The names of persons appointed by the city or town council, under the workmen's compensation law, to enter into and execute an agreement for the settlement of any claim which an employee may have against the town or city, must be recorded in the office of the town or city clerk (28-31-4).

INDEX

Abandoned property, 19
Absentee estates, 65
Access to public records, 4-6
Accessory family dwelling unit, 42
Accounting systems, 135
Acknowledgement of instruments, 125
Acknowledgement, defective, 26
Acupuncture license, 125
Adopted children, birth certificates, 76-78
Adoptee vital records file, 78
Adverse possession, 20
Airport expansion, 20
Alcoholic beverage licenses, 116-118
  annual reports, 117
  appeals, 117
  caterer's license, 117
  certificate of payment, 116
  class AS license, 118
  class F-2 license, 117
  class T license, 117
  expiration date, 116
  golf courses, 118
  local liquor option, 134
  notice and hearing, 116
  objection by property owners, 117
  police details, 116
  premises covered, 116
  records, 117
  renewal, 118
  sales on Sundays, 117
  uniform procedures, 117
Animals, impounded, 128
Appeals from town council, 125
Architects, 30, 125
Asbestos abatement, 20
Assignment,
  deed of, benefit of creditors, 26
  future wages, 126
  mortgages, 34
Assumed name, filing of, 126
Attachments, 20-21
  dissolution, 21
  lis pendens, 20
  personal property, 20
  real estate, 20
  sheriff's bond, 21
Attorney, power of, 27
Audit report, municipal, 126

Bail property liens, 18
Ballots, 108-114
Birth certificates, 74-79
  adopted children, 76-78
  adoptee vital records file, 78
  delayed registration, 84-86
  filing, 74
  foreign births, 78-79
  foundling registration, 75-76
  legitimated children, 76-78
  native Americans, 91
  social security numbers, 75
  stillbirths, 75
Blood test report, 80
Board of canvassers and registration, 94
Bond, deputy town clerk, 1-2
  executor, administrator, guardian, 51-52
  motor vehicle operator, 21
  surety, probate, 51-52
  town clerk, 1
Bonds, municipal, 132
Bonds, sheriff's, 21
Boundary line determination, 21
Building authorities, 35
Burial transit permits, 83

Category one memorial items, 21
Caterer's license, 117
Cats, 127
Cemeteries, historical, 28
Cemetery vault, plans for, 21

Certificate of descent, 52, 66
Certificates (see vital records, birth certificates, marriage certificates, death certificates)
Change of name, probate, 43
Charters, home rule, 130, 134
Chiropractors, 127
Civil unions, 81-82
Closing out sales, 118-119
Coastal resources, 21
Coastal wetlands, 22
Columbarium, plans for, 21
Condominiums, 22-24
amendments to declaration, 23
certificate of completion, 23
condominium ownership act, 22
conveyance of common elements, 23
declaration, 22
development rights, 23
eminent domain, 22
foreclosure of lien, 23
leasehold condominiums, 23
liens for assessments, 23
limited common elements, 23
merger or consolidation, 23
plats and plans, 23
relocation of boundaries, 23
Rhode Island condominium act, 22
subdivision of units, 23
termination agreement, 23
transfer of special declarant rights, 23
unincorporated associations, 23
Conduct of elections, 107-110
affidavits as to identity, 109
ballot storage and security, 110
ballots, 108-110
bilingual poll workers, 108
bilingual voting material, 109
bipartisan supervisor, 109
certified voting list, 109
children in voting booth, 110
closing of polls, 110
custody of voting machines, 108
irregular ballots, 110
posting of original records, 110
provisional voting, 109
sample ballots, 108
sealing of returns, 110
tabulation of returns, 110
temporary registration certificates, 109
voter identification, 109
voting booths, 107
Conservation easement, 24, 52
Conservation restrictions, 24
Conservators, 59
Constables, 136
Continuation statements, 37
Conveyance of land, 24-25
divorce proceedings, 25
United States government, 25
Cremation certificates, 84
Crypt, plans for, 21
Curtesy, 66
Custodians, 52

Dams, 25
Death certificates, 82-84
burial permits, 83
cremation certificates, 84
delayed registration, 86
disinterment permits, 83-84
fetal death, 83
registration, 82
Deeds, 26
Defective acknowledgements, 26
Delayed registration of vital records, 84-87
Deputy town clerk, 1-2
Disclaimer of property interests, 57-58
Disclaimers and renunciations, 34
Disinterment permits, 83-84
Disposal of records, 4
District management authorities, 127
Division of real estate,
land evidence, 34
probate, 65-66

Dog licenses, 119-120
annual census of dogs, 119
disposition of fees, 119
license information, 119
notice, 119
rabies, 120
Dog owners, list of, 119
Dogs, vicious, 123-124
Dogs and cats, 127
Dower, 35, 66
Documentary stamps, 15-16

Easements, solar, 37
Election, town clerk, 1
Elections, 94-115 (see also conduct of elections, mail ballots, primaries, registration of voters)
board of canvassers, 94
canvassing, 101-103
central voter register, 115
chief state election official, 115
children in voting booth, 110
combination of voting districts, 107
conduct of, 107-110
elective meetings, 107
foreign absentee federal ballots, 114
HAVA, 109
high school students, 104
mail ballots, 111-114
nominations, primaries, 107
party committees, 104
polling places, 103
preliminary lists, 102-103
presidential preference primaries, 114-115
primaries, 106-107
primary voting lists, 104
publication of local questions, 94
registration of voters, 94-101
uniform deadlines, 94
voting districts and officials, 103-104
voting lists, primaries, 104
Electronic Records, 12
Emergency Management, 128
Energy crisis, 128
Environmental management, annual report, 127
Environmental permits, 26
Estate and transfer taxes, 55-56
Estrays, 128
Excavations, 128
Excise tax, motor vehicles, 136
Execution on real estate, 26
Executor of will, 51-52
Explosives permit, 129

Farm, forest and open space, 26
Fees,
estate and transfer taxes, 55-56
fishing license, 121
hunting license, 122
probate, 69-70
recording, 17-18
vital records, 93
Fees for copies, 18
Fence divisions, 27
Fence viewer, 27
Fetal alcohol syndrome, 80
Fetal death certificates, 83
Fiduciaries, 27
Fiduciary's affidavit, 53
Financial town meetings, 129
notice, 129
open meetings, 129
records, 129
special, 129
voting booths, 129
warrant, 129
Firearms, certificates of competency, 121
Fireman compensation lien, 130
Fishing licenses, 120-121
application, 120
combination hunting, 121
fees, 121
issuance of, 120
records, 120
Foreign births, 78-79

Forest land, 26
Form of order, probate, 51

General Assembly proceedings, copies of, 127
General index, 11
Guardian ad litem, 59
Guardians, limited, 58-60
good Samaritan, 58
temporary, 58
Guardianship, 35
Guardianship of minors, 61

Handstamps, 16
Hazardous waste disposal, 27
Health regulations, 130
Help America Vote Act, 109
Highway projects, federal aid, 130
Highways, 27-28
eminent domain, 27
improvement and grading, 28
Historical cemeteries, 28
Historical records, 8-9
Historical records trust, 9
Home rule charters, 130
petition for, 134
Hospital lien, 131
Housing authorities, 28
petition for, 135
Housing code, 32
Housing commissioners, appointment of, 126
Hunting licenses, 121-122
application, 121
certificates of competency, 121
fees, 122
issuance of, 121-122
records, 122

Index, general, 11
Insurance, temporary disability, 136
Interlocal cooperation, 131
Itinerant vendors licenses, 122-123

Jurisdiction, probate court, 43-45
annulment of probate, 44
confirmation of prior acts, 44
general, 43
grant administration, 44
missing person, 45
orders and decrees, revocation of, 43
possession of property, judicial aid, 45
probate of wills, 44
receive evidence, 44
sea disaster, 45
summons, 44
temporary custodians, 43
warrants and commissions, revocation of, 44
Jurors, 131
list of, 131
Justices of the peace, 132

Kennel licenses, 123

Land evidence records, 19-42
Land surveyors, 29
Land trusts, 29
Landlords, 29
Lead poisoning, 29
Leased land, 29
Legacies, 35
Legitimated children, birth records, 76-78
Licenses, 116-124
alcoholic beverage, 116-118
closing out sales, 118-119
dog, 119-120
fishing, 120-121
hunting,121-122
itinerant vendors, 122-123
kennel, 123
marriage, 79-81
unpaid taxes, 116
vicious dogs, 123-124
Liens, 30-31 (see also tax liens)
architects and engineers, 30
bail property liens, 18
child support, 30

deceased recipient's estate
for assistance, 30-31
firemen and policemen
compensation, 130
hospital, 131
mechanics, 30
removal of refuse, solid waste, 130
Limited guardianship, 58-60
Liquor, local option, 134
Liquor licenses, 116-118
Lis pendens, 20

Mail ballots, 111-114
alternative voting methods, 111
applicant voting in person, 113-114
application by permanently
disabled, 112
application for ballot, 112
certification of applications, 112
counting of ballots, 113
custody of lists, 113
exemption from registration, 111
forms and supplies, 113
issuance of ballots, 112-113
law, 113
lists of mail voters, 114
local supervision, 113
persons eligible, 111
secretary of state, 112-113
validity, 111
victims of domestic violence, 112
voting from board of canvassers, 113
Maps, 34
Marketable record title, 32
Marriage licenses, 79-81
application for, 79-80
blood tests, 80
consent of family court, 80
delayed registration, 86
disease information packet, 80
electronic statewide system, 79
expiration date, 80
invalid marriages, 81
parental consent, 80
previous marriage, 80
recording of information, 80
return of license, 80-81
Mausoleum, plans for, 21
Mechanics liens, 30
Microfilming, 17
Military discharges, 131
Minimum housing code, 32
Missing children, 79
Mobile home conveyance tax, 16-17
Mobile homes, 16-17, 32
Mortgages, 33-34
ancient, 33
assignment, 34
discharge, 33
foreclosure deed, 34
open-end, 33
reverse, 33
Motor vehicle, excise tax, 136
Motor vehicle operator, 21
Movers, 131

Notaries public, 132

Oath of office, 1
Oaths, administering, 125
Open meetings, 133-134
Ordinances, 134
notice provision, 134
zoning, 42
Open space land, 26
Out of wedlock births, 89-90

Parental consent, marriage license, 80
Parental successor, 59
Parks and recreational areas, 34
Partition, 34
Penalties, 2
probate, 56
vital records, 92
Petitions, 134-135
accounting systems, 135
home rule charters, 134
housing authorities, 135

local liquor option, 134
special financial town meetings, 129
Photographic processes, 17
Policeman compensation lien, 130
Port facilities, 34
Possibility of reverter, 36-37
Power of attorney, 27
Preservation restrictions, 24
Presidential preference primaries, 114-115
Primaries, 106-107
certificates, 107
dates, 106
filing of nominations, 107
notice, 106
officials, 106
recount petition, 106
tabulation, 106
unlisted voter, 106
Probate, 43-70 (see also jurisdiction of probate court)
absentee estates, 65
accounts, 56
administrative rules, 50
appeals, 67-68
appointment of executor and administrator, 51-52
certificate of descent, 52, 66
claims, 53-55
clerk, 43
clerk pro tempore, 43
custodians, 52
decedents' estates, 63-64
disclaimer of property interests, 57-58
division of real estate, 65-66
dockets and special sessions, 50
dower and jointure, 66
e-mail accounts, access to, 64
fees, 55, 69-70
forms, 50
guardians, limited, 58-60
guardians, minors, 61
jurisdiction, 43-45
legacies, devises, and inheritance, 56-57
management of estates, 52
notices, 47-50
oaths, 50
petitions, 47
real property, 64-65
records of land evidence, 33-34
small estates, 68
taxes, estate and transfer, 55-56
trust companies, 66-67
veterans' guardianship, 62-63
waiver, 35
wills, custody of, 45-46
Property interests, disclaimer of, 57-58
Public building authorities, 35
Public health, 135
Public records, 3-8
access, 4-6
administration, 6-8
certified copies, 11
compliance, 6
costs, 5
custodian, 3
damage, 4
definition, 3
delivery on leaving office, 3
destruction of, 6
disposal, 4, 6-8
receptacles, 3
recording, 10-11
vaults, 3

Rabies, 120
Real estate,
attachment, 20-21
division of, 34
powers, 35
rights, 36
setting off and allowance, 35

Real estate conveyance tax 13-16
computation of, 16
documentary stamps, 15-16
exempt transactions, 14-15
payment, 15
records required, 16
taxable transactions, 13-14
Recording procedures, 10-18
change in name, 11
electronic records, 12
fees, 17-18
general index, 11
instruments eligible, 10-11
microfilming, 17
receiving book, 11
return of documents, 18
Receiver, 65
Receiving book, 11
Recognizance, 36
Records storage, 3
Redevelopment projects, 36
Referee's report, 36
Refuse, 130
Regional school district, 37
Registrar of vital records, 73-74
Registration of voters, 94-101
acknowledgement of registration, 99
alternate locations for voting, 94
certification of citizenship, 97
change of address, 98
confirmation process, 99-100
division of motor vehicles as agent, 96
eligibility to vote, 94
filing and custody of records, 97
form, 96
lists to political parties, 98
local registration agents, 96
method of, 97
party designation, 99
pre-registration, 101
receiving registrations, 95
registration at high schools, 95-96
registration by mail, 96-97
registration challenge, 100-101
re-registrations, 98
residency, 95
restoration of voting rights, 94
updating of records, 100
Release,
attachment, 21
tax lien, 39-40
Renunciations, 34
Retirement system, municipal, 132
Revaluation contracts, 135
Right of entry, 36-37

Sale price recording, 25, 32
School construction, 37
Secured transactions, 37
Sewage disposal, 37
Sheriff's bond, 21
Small estates, 68
Soil erosion, 37
Solar easements, 37
Solid waste, 38, 130
State archives, 8-9, 74
State director, employment security, 30, 136
State documents, custody of, 127
State land, 19
examination of title, 19
filing condemnation papers, 19
sale or lease, 19
transfer, 19
State public records administration, 6-8
State registrar of vital records, 73-74
State tax administrator, 55
Storage of records, 3
Subdivision of land, 38
Surety on bonds, probate, 51-52
Survey plans, 38

Tax liens, 39-40
federal taxes, 39
local property taxes, 39-40
state taxes, 39
Tax roll and assessment, 136
Tax sale, 39-40
Taxes,
estate and transfer, 55-56
state, 135
Temporary disability insurance, 136
Time-share property, 40
Town clerk,
bond, 1
council clerk, 2
deputy, 1-2
election, 1
false personation, 2
oath of office, 1
penalties, 2
pro tempore, 2
term of office, 1
vacancy, 1
Town council,
appeals from, 125
vacancies, 136
Town meeting, 129
notice, 129
open meetings, 129
records, 129
special, 129
warrant, 129
Town sergeants, 136
Tree wardens, 136
Trust companies, 66-67
Trust property, 41

Underground storage facilities, 41
Uniform commercial code, 41
United States government, conveyances of land, 25

Vacancy in office, 1
Vacancies, town council, 136
Vaccinations, 137
Vaults, 3, 21
Veterans' guardianship, 62-63
Vicious dogs, 123-124
Vital records, 71-93 (see also births, marriages, and deaths)
acceptance of certificates, 72
amendment of, 87-88
certified copies, 90-91
civil unions, 81-82
correction of records, 87-88
fees, 93
forms, 71
general duties, 71-73
local registrars, 71-72
penalties, 92
registration procedure, 72-73
social security numbers, 75
state registrar, 73-74
transmittal procedure, 73
veterans' exemption, 93
void certificates, 73

Wages, assignment of, 126
Waiver, 35
Water pollution violations, 41
Water supply, 137
Well drillers, 137
Wetlands, 22, 41
Wills,
compromise of controversies, 46
contested, 47
delivery into court, 45
disposition of documents, 45
foreign, 46
land evidence records, 35
notice to executors, 46
proof of purported will, 46
Workmen's compensation, 137

Zoning ordinances, 42

Website: September 6, 2012