New England Regional Midweek Update
6/10/2026

Dear Stewart Partners,

We hope you have had the opportunity to enjoy the beautiful summer-like weather we have been deservedly anticipating. As we approach what is seemingly a fleeting season, we thought we would take this opportunity to provide a link to some of the best locations and activities for enjoying a summer in New England. https://www.getyourguide.com/new-england-l97045/summer-activities-tc2020/.

On the business/legal front, we are providing a brief reminder on the importance of homestead rights when dealing with revocable trusts in New Hampshire. In addition, we've included an article on some of the differences between Massachusetts and Rhode Island trust conveyancing practices.

For our Connecticut agents, we are sharing some recent guidance issued by the state's Building Inspector on the application of Connecticut General Statutes § 29-265(c) to various types of permits as it relates to automatic closure provisions and enforceability. The guidance provides much needed clarity due to the inconsistent application of the law among municipalities.

In case you missed it, we've recently issued two Special Alerts, one directed at all issuing agents and one for Massachusetts issuing agents. For information about each and links to the alerts, see below. Lastly, for those of you looking for CLE credit for Maine, New Hampshire, Rhode Island, Vermont or Connecticut, we have an upcoming webinar on Title Commitment Prep that is offering 30 minutes of continuing legal education credit. To register, follow the links below.

Reminder for Handling Homestead Rights in NH when Dealing with Revocable Trusts By: Michelle Radie-Coffin, NH State Counsel

Homestead rights in New Hampshire must be addressed in every deed and in every mortgage. The homestead right applies to a primary residence and benefits the titled owner and any non-titled spouse, automatically. The value of the homestead right is presently $400,000 for a single person and not more than $550,000 for co-owners. (NH RSA 480:1). Homestead rights have priority over mortgages and liens, with the exception of purchase money mortgages and property tax liens. The failure to properly release these rights is a significant source of claims, especially in the bankruptcy and foreclosure context. Therefore, it is extremely important to make sure you properly address them in each transaction. A tricky area is dealing with revocable trusts and whether in a conveyance out of a revocable trust one needs to address homestead rights. The relevant statute provides as follows:

> NH RSA 480:9 Homestead Rights. – A conveyance of real property by deed to one or more trustees of a revocable trust shall not result in the loss of

> homestead rights of any person executing the deed (unless the deed contains an express release of homestead rights by such person) provided that such retained homestead rights in any such property shall not be enforceable against any other person to the extent such other person acquired an interest in or lien on the property after its conveyance into the trust without having notice of the revocability of the trust. Such notice may be given by the inclusion of the word "revocable" in the name of the trust as recited in the deed, or by the recitation in the deed or a subsequently recorded document that at the time of the conveyance the trust was a revocable trust.

In addition to the statute, New Hampshire has a title standard on point which provides further clarification:

> NH Title Standard 5-5 Homestead Release and Revocable Trusts. Effective January 1, 1998, a deed to one or more trustees of a named revocable trust or a trust that provides notice that its terms are revocable does not release homestead rights of the grantors, unless the deed contains an express release of homestead rights by the grantors and their spouses. A subsequent deed or mortgage from one or more trustees of a revocable trust should also be executed by the grantors/settlors and their spouses releasing their individual homestead rights. See RSA 480:9.

It is not uncommon in the course of estate planning that individuals owning property will convey property into a revocable trust that they have established. Given the law, this conveyance may not terminate the homestead rights of the individuals. As such, a subsequent conveyance by the trust to a third party needs to address any retained homestead rights.

The key takeaway is whenever there is a conveyance by a revocable trust, one must consider whether the settlors have a homestead right in the property. For this reason, it is necessary to review the deed conveying the property into the trust to verify if a homestead right exists and if so whether the homestead right was expressly released. If it was not, or if there is no mention of homestead, then the homestead right has been retained by the settlors of the trust and must be released in the deed coming out of the trust. To effectuate this, the trustee(s) must sign in their capacity as trustee(s) and in addition must sign individually for the purpose of releasing homestead. The deed must also contain a recitation(s) as to the marital status of the trustee(s). If the trustee(s) is married, then their spouse must also sign the deed for purposes of releasing homestead.

As always, if you have any questions on this subject or any other conveyancing matter, do not hesitate to reach out to your Stewart underwriter.

Trusts— Massachusetts vs. Rhode Island By: Mark A. Jones, Esq., Associate Senior Underwriting Counsel – Massachusetts and Rhode Island

As many of our agents issue title insurance in both Massachusetts and Rhode Island I thought it would be a good idea to compare and contrast some of the key differences between the two states as it relates to conveyances in and out of Trusts.

One of the similarities in both states is that the entire trust does not need to be recorded. Rather, a statutory form can be used in lieu of recording the entire trust. In Massachusetts, a form 184/35 certificate, based on Massachusetts General Laws Chapter 184 Section 35, is used to establish the trust and trustees of record. The statute sets forth the minimum requisite information that must be contained in the certificate, requires that the certificate be

sworn to or executed under the penalties of perjury by the trustee, and recorded in the county in which the real estate owned by the trust is located.

In Rhode Island, an Affidavit or Memorandum of Trust can be used pursuant to R.I.G.L. Section 34-4-27. The statute also sets forth the minimum items of requisite information that must be disclosed, and can be executed by either the settlor or trustee of the trust.

Key differences between Massachusetts and Rhode Island Trusts

Both the Massachusetts 184/35 certificate and the RI Memo of Trust are similar in that both provide a name and date of the trust as well as list the settlor and trustees. But there are a few key differences between the states to be aware of. For instance, in Massachusetts, a non-record title trustee, sometimes referred to as a "pop-up" trustee, can create an issue. The issue presents itself when a stranger to the title records a trustee certificate stating that the other trustees have either resigned, are deceased or are incapacitated and they are the successor trustee, having been appointed by the beneficiaries. Due to the fact that there is no record title substantiation of the appointment, this is almost always a problem from a title perspective.

The issue can, of course, be cured with a probate court action, confirming or ratifying the appointment, although frequently it isn't necessary to involve the court if a suitable affidavit can be obtained from an attorney with knowledge of the affairs of the trust, who can make certain representations concerning the trust, and which also includes certain original documentation to establish the successor trustee appointment. What is required to be stated in the affidavit, and what documents need to be attached will depend on the terms of the trust and the information contained in the original 184/35 certificate.

In Rhode Island, on the other hand, a "pop-up" trustee is typically not detrimental to the title. In Rhode Island, a Memo of Trust isn't recorded until there is a conveyance of the land held in trust, and at that time a successor trustee can put on a Memo of Trust that includes either the section of the trust that describes how a successor trustee is appointed or simply restate the language in the Trust. In other words, a stranger to the title can execute and record a statutory Memo of Trust and state they are the successor trustee and convey the property without creating any title issue.

Another key difference between Massachusetts and Rhode Island is how the lack of a recorded trust or Trustee Certificate/Memo of Trust can impact the title. In Massachusetts, a deed into and out of the trustee of a trust without recording a trustee certificate or the trust may not create any title concern, given the statutory protection found in the indefinite reference statute. The result of this is that if title passes to Sam Smith, trustee of the XYX Trust, but no Trustee Certificate or Trust is recorded and Sam Smith, as trustee conveys out in an arm's length transaction, to Jane Doe, title would vest in Jane Doe. On the other hand, in Rhode Island, if either there is no Memo of Trust recorded at the time of the conveyance or if the Memo of Trust is somehow defective this can create a title issue. The issue will self-cure after a period of five years has elapsed from the date of recording and there is no record evidence of a challenge to the validity of the conveyance.

As you can see there some significant differences between these two states when assessing the record title to property that has been held in trust and we welcome any questions or concerns you have when insuring property where title has been or is coming out of trust.

Connecticut's State Building Commission Clarifies Automatic Closures and Enforceability of Certain Building Permits

On May 27, 2026, in guidance to municipal building department officials throughout Connecticut, Connecticut State Building Inspector, Omarys C. Vasquez, clarified that the requirement for municipal building departments to deem closed building permits issued for the construction or alteration of a one-family or two-family dwelling or structure located on the same parcel as a one-family or two-family dwelling for which a certificate of occupancy has not been issued nine years from the date of issuance by operation of law pursuant to Connecticut General Statutes § 29-265(c) includes permits for which a certificate of occupancy is not expressly required under the Connecticut State Building Code. The guidance seeks to clarify confusion resulting in the inconsistent application of the law among municipal building departments across Connecticut.

Connecticut General Statutes § 29-265(c) creates an automatic closure mechanism for certain long-outstanding residential building permits:

9-year automatic closure – A building permit issued for the construction or alteration of a one-family or two-family dwelling, or related structures on the same parcel, is deemed closed by operation of law if nine years pass from the date of issuance of said permit without issuance of a certificate of occupancy (CO).

No enforcement after 9 years – After that nine-year period, municipalities may not bring enforcement actions based on the existence of the open permit or the work performed under it.

Municipal immunity – The statute provides that municipalities and their officials are not liable for claims arising from the closure of such permits buy operation of law pursuant to § 29-265(c).

Scope limited to residential context – Applies to permits issued under § 29-263 for properties improved with one-family or two-family residential dwellings and accessory structures (e.g., garages, decks, pools).

For additional information on this topic, please contact a member of the Stewart Connecticut Agency Team.

Special Alerts

SLS2026006 - On June 6, 2026, Stewart issued a Special Alert directed at all issuing offices. The alert relates to a home buying affordability program where title to the land and improvements may be split. The transaction structure may impact title, lien priority, and

insurability. Approval by a Stewart Senior Underwriter is required prior to insuring these transactions. To view the alert, please follow this link: SLS2026006

SLS2026127 – On June 3, 2026 Stewart issued a Special Alert directed at all Massachusetts issuing offices. Prior to insuring transactions involving the following properties or individuals, clearance must be obtained from Stewart's Legal Services.

33 Mockingbird Dr, Edgartown, MA 02539

70 Watcha Club Rd, West Tisbury, MA 02575

Frank M. Fenner, Jr.

Geoffrey Gund

To view the alert, please follow this link: SLS2026127

Upcoming Education - Stewart Underwriters Talk Title: Title Commitment Prep

Don't forget to join us next month for our next installment of our Talk Title series covering Back to Basics: Title Commitment Prep on July 8, 2026 presented by David P. Piechota, Esq. and Eileen O'Shaughnessy, Esq. CLE credits will be available for CT, ME, NH, RI and VT. If you have not registered yet, please follow the link: Register here

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