

# Taking an Out of State Deposition in Rhode Island Just Got Easier!

Article By:

Construction Practice Group Pierce Atwood

---

On July 15, 2019, the Uniform Interstate Depositions and Discovery Act (the “Uniform Act”) was [enacted](#) in Rhode Island. R.I. Gen. Laws 9-18.1-1 *et seq.* It will simplify the process of taking a deposition in Rhode Island for actions pending outside Rhode Island. In enacting this legislation, Rhode Island joins [33 other states](#) in adopting the uniform legislation.

## Fact Scenario

You have a construction litigation matter pending in Vermont, but the architect of the project is from Rhode Island. You want to take the architect’s deposition. How do you go about taking the architect’s deposition?

## Process Pursuant to the Previous Statute

The Vermont counsel wishing to take the deposition must provide a commission or some instruction from the Vermont trial court granting permission to take the out of state deposition. Vermont counsel then had to retain local counsel licensed to practice in Rhode Island to ***commence a miscellaneous action in Superior Court*** to obtain permission to issue the subpoena in Rhode Island. This required the commencement of a civil action in Rhode Island, a motion, and a hearing. It was time-consuming and cumbersome.

## Process Pursuant to the Uniform Act

The process is now streamlined – just one extra step beyond issuance of an in-state subpoena. The Vermont attorney now simply has to request the issuance of a subpoena to a Superior Court Clerk or an attorney authorized to practice in Rhode Island and provide a copy of the subpoena from the trial state (here Vermont). The clerk or a Rhode Island admitted lawyer will then issue a subpoena pursuant to Rhode Island rules and practice that incorporates the terms of the foreign subpoena and provides the contact information of all counsel of record and any party not represented by counsel.

Because this process is new in Rhode Island, the Court Clerks may be unfamiliar with the process of issuing the subpoena, but most any litigation attorney licensed in Rhode Island will be able to issue a subpoena pursuant the straightforward Uniform Act.

Here are some considerations given Rhode Island's adoption of the Uniform Act:

- **Trial State Procedures Still Govern.** The process by which to conduct an out of state deposition is still governed by the statutes and rules of the trial state. For example, if the trial state requires a letter rogatory or commission be obtained prior to the issuance of an out of state subpoena, obtaining that document still remains a requirement.
- **Discovery Disputes Governed by the Discovery State.** The Rhode Island Rules of Civil Procedure govern subpoenas issued under the Uniform Act. The Uniform Act provides that protective orders or motions to enforce/quash a subpoena must comply with the Rhode Island Rules of Civil Procedure and be decided by the Superior Court in the county where the discovery is to be conducted. If this becomes necessary, a miscellaneous petition will be required to present the issue to the Court.
- **Only Applies to Depositions Permitted by States.** The Uniform Act only applies to out-of-state subpoenas issued by foreign jurisdictions or other States. Thus, the Uniform Act will not apply to subpoenas issued in out-of-state arbitrations, administrative hearings, or other similar proceedings where subpoenas are issued.

©2025 Pierce Atwood LLP. All rights reserved.

---

National Law Review, Volume IX, Number 268

Source URL: <https://natlawreview.com/article/taking-out-state-deposition-rhode-island-just-got-easier>