

*To protect the public interest by ensuring that registrants act within a professional framework that promotes ethical conduct and integrity and strengthens consumer trust and confidence.*



# THE REGISTER

**FALL 2023**



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## Important Dates and Deadlines

### Professional Corporations Permit Renewals:

Deadline: December 31, 2023

### Annual Financial Returns for 2023:

Begin January 3, 2024

Deadline: March 15, 2024

### Continuing Professional Development (CPD) 2023-2024:

Begins early January 2024

Deadline: May 31, 2024

### The Commission Office will be closed :

Friday, Dec 22 at noon - Jan 2  
Holiday Season

### Regular Office Hours

Monday to Friday  
8:30am - 12:00pm  
1:00pm - 4:30pm

Closed Saturday, Sunday and  
Statutory Holidays

## A NEW REGISTRATION MODEL FOR 2024

Effective January 1, 2024, the Saskatchewan Real Estate Commission will be implementing a new registration model. The decision to move from the current model was undertaken after consultation with stakeholders and consideration by the Commission. The change in education requirements necessitated a change in the Commission Bylaws, which in turn required notice to, and approval from, the Financial and Consumer Affairs Authority of Saskatchewan (“FCAA”). Now that the requisite changes to the Bylaws have been approved and processed by the FCAA, the Commission is pleased to announce the changes to its registration model.

Currently, students interested in real estate sales are required to complete education courses relating to all three of the specialty real estate categories (Residential, Commercial, and Farm) and are eligible to trade in all three categories upon registration. Under the new model, students will be able to become registered with the Commission without completing courses in all three of the categories.

As of January 1, 2024, all students will be required to complete the Phase 1 – Real Estate as a Professional Career and the Phase 2 – Residential Real Estate as a Professional Career courses in order to become registered with the Commission. Once these two courses are complete, the student will be eligible for registration with the Commission to trade in residential real estate only. Students have the option of completing the Phase 2 – Commercial Real Estate as a Professional Career and/or the Phase 2 – Farm Real Estate as a Professional Career courses at a later date in order to be registered to trade in those areas. Students who wish to be registered to trade in all three categories of real estate must complete all three Phase 2 courses.

**Q: What if I started completing the pre-registration courses before January 1, 2024?**

The Commission will continue to recognize pre-registration courses purchased before January 1, 2024. Students who have already completed some of the pre-registration courses will not be required to complete the new versions of the same courses over again.

**Q. I have already completed the Phase 1 – Real Estate as a Professional Career and Phase 2 – Residential Real Estate as a Professional Career courses. Am I now eligible for registration with the Commission?**

Yes. As of January 1, 2024, students who have completed the Phase 1 and Phase 2 Residential courses, including those purchased prior to January 1, 2024, will be eligible for registration with the Commission to trade in residential real estate only.

**Q. Once I am registered with the Commission to trade in residential real estate, can I still complete the Phase 2 – Commercial and Phase 2 – Farm courses?**

Yes. Once a registrant completes the Commercial or Farm course, the registrant will be authorized to trade in the corresponding category of real estate and the registrant’s certificate of registration will be updated to reflect the same.

**Q. Will the cost of each of the pre-registration courses be changing?**

Yes. Students who only complete the Phase 1 and Phase 2 Residential courses will pay less than previous students who were required to complete all three Phase 2 courses. Students who complete the Phase 1 course and two of the Phase 2 courses will pay about the same as previous students who were required to complete all three Phase 2 courses. Students who complete the Phase 1 course and all three of the Phase 2 courses will pay more than the previous students.

**Additional Information on the New Registration Model can be found here:**

<http://www.srec.ca/pdf/NewRegistrationModel-Nov2023.pdf>

## TRADING IN PROPERTY THAT IS PART OF AN ESTATE

When a property owner passes away, there are certain steps that must be taken before another individual can begin the process of selling the assets of the estate.

If there is a **valid Will, it will name a person or people as “executor(s)”**. This is who will administer the deceased owner’s estate. In many cases, the Will must be probated with the Court before any property is distributed. This must be done if distributing the estate requires any land transfers. As such, prior to disposing of a property held by an estate, **probate must be received to confirm the executor’s authority to distribute the estate**. If there is uncertainty as to whether a Will has already been probated, you can search the Wills and Estates Registry of Saskatchewan [HERE](#).

**If there is not a valid Will, a relative of the deceased can apply for Letters of Administration**, which will grant them authority to deal with the assets of the estate. Once Letters of Administration are granted by the Court, this individual (the “Administrator”) will have the lawful authority to distribute the estate.

Until either Letters Probate or Letters of Administration are granted by the Court, real property held by an estate cannot be transferred. However, it is often in the best interest of the estate to enter into an agreement to list a property for sale prior to the issuance of Letters Probate.

**Registrants are cautioned and are strongly advised to seek an opinion on the validity of the Will from a lawyer who specializes in the area.** A searchable directory of Saskatchewan lawyers can be found [HERE](#). To find a lawyer in this specific area, the subject line titled “Area of law or legal issue” must be set to “Wills / Estates” (very last option on drop-down menu).

If a registrant is approached by a person who wants to list a property that forms part of an estate for sale, there are a few things the registrant should do before proceeding:

**Search Title:** The registrant should search title to confirm that the person with whom they are dealing can legally enter into a listing agreement and sell the property. If the person has been granted the authority to deal with the assets of the estate, he or she will often be named on title in a representative capacity (following the grant of Letters Probate or Letters of Administration). If the person is listed on title, they have the necessary authority to list and sell the property.

**Letters Probate/Letters of Administration:** The registrant should confirm whether and when either Letters Probate or Letters of Administration were granted by the Court, and to whom. Trying to sell the property without confirming this can result in a sale being delayed or lost. If the person has been granted Letters Probate or Letters of Administration, they have the necessary authority to list and sell the property. The registrant should obtain a Notarial Copy of the Letters Probate or Letters of Administration.

**Obtain Necessary Background Information:** The registrant should inquire with the person with whom they are dealing to get a sense of what has happened with the estate. They should confirm whether the person has been in touch with a lawyer. If not, the registrant should recommend they contact a lawyer with regards to the estate.

**Confirm Authority:** If Letters Probate/Letters of Administration have not been issued by the Court, the registrant should confirm the existence of a valid Will, indicating that the person is the executor of the estate that owns the property.

**It is important to note that the person named as executor or the person seeking to be the administrator of the estate may be unaware of the steps required to proceed with the necessary Court application, the cost of the application, or the time delay that can be involved.** It is important to be aware that an application for Letters Probate or Letters of Administration can take several months to be completed. Further, it is possible that in the process, the representative of the estate may change. It is for these reasons that registrants are cautioned to proceed carefully, conduct proper due diligence, and assure adequate disclosure when dealing with a property owned by an estate.

## TRADING IN PROPERTY THAT IS PART OF AN ESTATE

**Trying to sell the property without confirming that Letters Probate or Letters of Administration have been issued by the Court can result in a sale being delayed or lost.** Sometimes the person named as executor or administrator is unaware of the steps required to apply for Court approval, the cost of the application, or the time delay that can be involved in such an application. It is quite possible that it will take months, not weeks, to obtain Letters Probate or Letters of Administration. The consent of all beneficiaries of the estate may be required to complete the transfer of title, which can add time and complexity to the transaction. In the event of a challenge, it is possible that the representative for the estate could change.

Complications arise when an offer is received on a listed property before the granting of Letters Probate or Letters of Administration as title to the property cannot be transferred until this has occurred. In these situations, before any offers are made, countered, or accepted, **all parties to the transaction must be made aware that the transaction could be delayed or cancelled entirely due to issues with the Court process.**

**Offers to purchase these properties should be made to include a condition precedent making the agreement subject to the issuance of Letters Probate or Letters of Administration.**

It should be noted that if the title is in the joint names of the deceased and a surviving joint tenant, the survivor can start the listing process immediately. The registrant should obtain a copy of the Funeral Director's Statement of Death to confirm this authority. However, the survivor cannot transfer title until the deceased person's name has been removed. The Provincial Death Certificate is required and this may take months to obtain.

While a registrant is not required to know how to obtain Letters Probate or Letters of Administration, they should be aware that there are special considerations involved when a property forms part of an estate and should ensure that their client has obtained the necessary authority and appropriate legal counsel prior to proceeding with the listing agreement.

**This is a complex and often misunderstood area. It is essential that the estate representatives speak with a lawyer prior to finalizing the listing documentation.**

## INVESTIGATION SUMMARIES

**FOR REGISTRANTS:** In order to maintain the professionalism of the industry, it's important for you to keep up-to-date on practice issues and disciplinary histories so you can continue to competently serve clients and customers.

**FOR STAKEHOLDERS AND CONSUMERS:** Everyone has the right to be aware of who has been disciplined in the real estate industry. It is important information to know, especially if you are looking to hire the services of a registrant (agent).

Full decisions can be found through our [website](#) (posted for three years) or on [CanLII](#) (posted indefinitely):

**[2023-55 Nicole Puterbaugh](#):** On November 21, 2023, Ms. Puterbaugh was issued an order of reprimand and a \$2,000 fine for breaching Bylaw 702 by failing to protect and promote the interests of her client; and an order of reprimand and a \$2,000 fine for breaching s. 58(1)(a) and 58(3) of *The Real Estate Act* by presenting verbal offers and acceptance of an offer.

**[2023-19 Ruby Moshenko](#):** On November 21, 2023, Ms. Moshenko was issued an order of reprimand and a \$3,500 fine for breaching Bylaw 702.1 by engaging in conduct that was unprofessional in the course of her practice.



## RIGHTS OF FIRST REFUSAL

A right of first refusal (“ROFR”) is a preferential right to purchase real estate which can be exercised by the right holder when the owner of a property decides to sell. While the specific terms may vary, an ROFR generally gives the holder the right to be notified of any offers to purchase the subject property the property owner receives and the right to purchase the subject property on the same terms and conditions offered by the third-party buyer. ROFRs are fairly common in farm real estate transactions.

While the ROFR deals specifically with the rights and obligations of the property owner and the right holder, it also creates obligations for the real estate agents representing the parties to real estate transactions in which an ROFR is involved.

Bylaw 714 requires the following:

714 - A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.

Given the relative prevalence of ROFRs in farm transactions, registrants who have been approached to list farm real estate for sale must be asking sellers if all or any of the property in question is the subject of an ROFR. If there is an ROFR, the registrant should be obtaining a copy of the agreement and contact information for the right holder and referring the seller for legal advice with respect to the seller’s obligations under the ROFR. A listing agent may also wish to contact the right holder to determine if there is any interest in exercising the ROFR or if it can be dispensed with immediately due to the right holder’s inability to purchase the property, or lack of interest in the same.

The existence of the ROFR must be disclosed to potential buyers, preferably in marketing materials relating to the subject property. Written disclosure of the ROFR in an email or text message to inquiring buyers or agents is also acceptable. As the ROFR may prevent an interested party from purchasing the subject property, courtesy and fairness dictate that its existence be disclosed early on in the process.

Disputes have arisen between brokerages as to how the buyer’s brokerage’s commission is to be disbursed in the event the property is purchased by the ROFR holder. If the buyer whose offer triggered the ROFR and the ROFR holder are both represented by registrants, both registrants have some basis for claiming entitlement to the buyer’s brokerage’s portion of the commission on the sale.

The Commission does not take a position as to which brokerage is entitled to commission, but the agency agreement signed by the seller must address the buyer’s brokerage’s commission and stipulate who is entitled to collect in the event the property is purchased by the ROFR holder.

Bylaw 715 states:

715 - Prior to obtaining an offer to purchase on a property from a client, a registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.

As such, a registrant representing a purchaser of farm real estate is required to ask the listing agent or the seller if the real estate is the subject of an ROFR. If an ROFR is disclosed, best practice would be for the registrant to request a copy of the document granting the ROFR for the buyer to review and refer the buyer for legal advice.

**The Commission has published Information Bulletins on a variety of topics:**  
<http://www.srec.ca/pblctnsinbu.asp>

## PROFESSIONAL CORPORATIONS PERMIT RENEWALS

Section 8 of *The Professional Corporations Act* sets out how the Commission is able to register and issue permits to individuals who have a Professional Corporation (PC). The Commission ensures all permits issued to PCs are in good standing and comply with *The Business Corporations Act*; *The Professional Corporations Act*; and the Commission Bylaws.

### **Understanding the Process:**

A PC registered with Information Services Corporation (ISC) must file an annual return with ISC to remain in good standing. Registrants can then apply to the Commission for a permit. Permits are valid January 1 to December 31 and must be renewed annually (renewals open in mid October each year).

To be eligible to renew your Permit, the Commission must receive an updated Corporate/Entity Profile Report showing the annual return has been filed and the PC is in good standing with ISC. We recommend forwarding the updated Profile Report to the Commission after you file your return with ISC.

### **How to Renew Your PC Permit:**

For Salespeople, Associate Brokers and Branch Managers, login in to the Commission's Online Registration System **on (or after) October 15th**, and simply click the 'Renew Permit' link under the "Professional Corporation Permit Information" heading and follow along to renew the permit. For Brokers, the process is the same, however the 'Renew Permit' option will be in their 'Action' drop-down box.

**If the 'Renew Permit' link is not available, an updated Corporate/Entity Profile Report showing the annual return has been filed with ISC will need to be provided to the Commission.** Once received, the 'Renew Permit' link will be available and the renewal can be completed as outlined above.

The fee to renew is \$200 payable online using VISA or MasterCard. Once paid you can print your new Permit and receipt.

**IMPORTANT DEADLINE** - The Commission office will be closed from **noon** December 22, 2023, re-opening January 2, 2024. In order to allow processing time, your Corporate Profile Report **must be submitted on or before December 19, 2023.**

**LATE FEE NOTICE:** If you fail to renew on time, a late fee of \$100 will be added to the renewal fee. If you do not renew and your permit expires, you will have to reapply for a new permit at a cost of \$500.

## REIX

The Real Estate Insurance Exchange (REIX) is a non-profit organization that provides mandatory, cost-effective errors and omissions insurance to real estate industry professionals in Alberta and Saskatchewan. Errors & Omissions Insurance premiums are paid by all Saskatchewan brokerages and registrants as part of your annual registration fees.

Check out the [PUBLICATIONS](#) tab on the Commission's website. In a joint effort to provide regular communication to all registrants, REIX is providing their newsletters and informational Blogs for the Commission to post.

**REIX Phone: 1.877.462.7349**



## EDUCATION

The Commission's mandatory education provider, the University of British Columbia's Sauder School of Business, Real Estate Division ([UBC Sauder](#)), provides all pre-registration courses as well as continuing professional development (CPD) courses. For education related questions, concerns or technical support contact UBC Sauder directly:

[saskinfo@realestate.sauder.ubc.ca](mailto:saskinfo@realestate.sauder.ubc.ca)

**1.888.776.7733**



CPD will be available in January 2024. If you plan to renew your registration for the next fiscal year (July 1, 2024 – June 30, 2025), it is mandatory to complete one of the course options by May 31, 2024.

## QUESTIONS OR CONCERNS

### Contact Us

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## Commission Members

Wayne Bernakevitch, Public Member  
 Cam Bristow, Saskatoon, elected  
 Carla Browne, Saskatoon, appointed  
 Micheal Genest, Saskatoon, appointed  
 Tim Hammond, Biggar, elected  
 Cliff Iverson, Chair, Regina, elected  
 Alberta Mak, Battleford, elected  
 Kayla McQueen, Saskatoon, elected  
 Anne Parker, Regina, appointed  
 Lori Patrick, Regina, elected  
 Dean Staff, Saskatoon, appointed  
 Bob Volk, Regina, appointed