

Proposal: Changes to *The Real Estate Act*: Electronic Signatures & Sale of Property Owned by a Registrant

The Challenge

Provisions in *The Real Estate Act* - which, despite requests from the Association of Saskatchewan REALTORS® and the Saskatchewan Real Estate Commission, are not among the changes proposed in the upcoming amendments to *The Act* - currently impede REALTORS® from conducting business in a reasonable way.

- **Electronic Signatures:** *The Act* continues to require the outdated act of physically witnessing electronic signatures on contracts
- **Registrants restricted in selling own property:** *The Act* currently places registrants in a difficult position when selling a property that they own or in which they have an interest.

The Issue

Long term repercussions: *The Real Estate Act* will likely not be reviewed again for some time, leaving these outdated provisions in place long-term, unless the government can deal with them using regulations under the Act.

Outdated practices: Witnessing of signatures is an outdated practice in many areas of business, given the latest technology, which can provide an electronic certificate that is secure and verifiable, and widely used in many other sectors of business. Many Canadian jurisdictions already accept and deem certificates sufficient to ensure the identity of an individual in real estate transactions.

Out-of-line with provincial counter-parts: Saskatchewan is the only province that allows electronic signatures but also requires a witness. E-signatures are common-place in many other jurisdictions without this requirement.

Unnecessary restrictions: Because *The Act* states “No broker, branch manager, associate broker or salesperson shall trade in real estate other than for or on behalf of the brokerage stated on his or her certificate of registration”, registrants could potentially be unable to comply with this provision when selling their own property.

What Should Happen

The ASR recommends the following changes to *the Real Estate Act*:

- Eliminate witnessing requirement on electronic signatures.
- Create an exemption so that registrants may trade in real estate for which they are an owner provided they conduct the trade through a registered brokerage.



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Proposal: Develop Standard Practice for Provincial REALTOR® Licensing

The Challenge

REALTORS® in Saskatchewan are licensed provincially by the Saskatchewan Real Estate Commission. REALTORS® who have been licensed by the Commission pay the local business license fee in the municipality where they have their offices. However, a growing number of municipalities are asking REALTORS® to pay the local license fee wherever they accept a property listing. Some have threatened to add the fee to the taxes of the property listed.

- Property owners should be able to engage a REALTOR® of their choice without penalty. REALTORS® who are credentialed and licensed should be allowed to practice anywhere in Saskatchewan without being liable to opportunistic or discriminatory taxes.

The Issue

Local licensing adds no value: Unlike the credential-based licensing conducted by the Commission at the provincial level, issuing the local license is a formality; the process is automatic on payment of the tax. A business license is essentially a nuisance fee. Other provinces (British Columbia and Ontario) have recognized that REALTORS® are licensed provincially in a credentialing process that ensures a level of training, expertise and good conduct.

Equity: REALTORS® are visible because of their For Sale signs. Others operating in a municipality – insurance brokers, lawyers, accountants and many others – may go unnoticed – and untaxed. As a result the nuisance tax is imposed unevenly.

Restraint of trade: A municipal license, especially when it requires a substantial payment, is often a tool to penalize non-resident REALTORS® who may be invited by a local owner to list the owner's property. The New West Partnership is intended to lower barriers to trade, and so is the Inter-Municipal Licensing provision. Continuing to allow arbitrary local taxes flies in the face of these efforts.

Misconception: While listing or offer-writing/negotiating may involve a presence on the property being sold, the business transaction is the sale, and it is rarely if ever conducted on the property being sold.

What Should Happen

- ASR proposes that Saskatchewan recognize REALTORS® licensed by the Saskatchewan Real Estate Commission as fully eligible to practice in any Saskatchewan municipality without further municipal taxes.
- Alternatively, ASR would suggest that any provincially-licensed REALTOR®, on whose behalf a business license fee has been paid in the municipality where the home office is located, be recognized as eligible to practice without further taxation in any other Saskatchewan municipality.