



# REAL ESTATE COMMISSION

## RECORDS RETENTION AND DESTRUCTION SCHEDULE

State of South Dakota

Bureau of Administration

Records Management Program

(605) 773-3589



DEPARTMENT OF  
EXECUTIVE MANAGEMENT

BUREAU OF  
ADMINISTRATION

PMB 01234

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## MEMORANDUM

TO: State Agencies

FROM: Dana Hoffer  
State Records Manager

SUBJECT: **Records Retention and Destruction Schedule Manual**

DATE: January 13, 2012

In 1967, the South Dakota Legislature established the Records Management Program and the Records Destruction Board. In the same act, the Legislature required every State agency to develop a records retention and destruction schedule and declared that “No record shall be destroyed or otherwise disposed of by any agency of the State unless it is determined by majority vote of such board (Records Destruction Board) that the record has no further administrative, legal, fiscal, research or historical value.”

According to Administrative Rule 24:52:11:01, any State government agency planning to destroy agency records shall notify the State Archivist 30 days before the date of the proposed destruction. The request shall include the name or title of the records, inclusive dates, information content of the records, and quantity. This rule applies to all records, including those granted exclusive or continuous disposal authorization by the Records Destruction Board, with the following exceptions: vouchers, original and copies, and supporting documents; warrants, original and copies, multiple copies of State publications stored in bulk; obsolete blank forms; photocopies of computer printouts; and original copies of records that have been legally reproduced under the provisions of SDCL 1-27-4.

The State Archivist has 30 days to certify that the records have no permanent value and may be destroyed, or to make arrangements to transfer the records to the archives. If the Archivist fails to make a recommendation within this time, the records may be destroyed, provided that the agency has received authorization from the Records Destruction Board.

Finally, if you have any questions about implementing this manual or about your records in general, please contact Records Management at 773-3589. We will welcome an opportunity to discuss the proper implementation of sound records management practices.

# TABLE OF CONTENTS

## REAL ESTATE COMMISSION:

|           |  |    |
|-----------|--|----|
| REC-1.    | ADMINISTRATIVE REFERENCE FILE:.....                | 1  |
| REC-2.    | ADMINISTRATIVE RULE PROMULGATION FILES: .....      | 2  |
| REC-3.    | AUDIT REPORTS:.....                                | 3  |
| REC-4.    | AUDIT REPORTS, BROKERS: .....                      | 4  |
| REC-5.    | CASH RECEIPT AND DISBURSEMENT JOURNALS:.....       | 5  |
| REC-6.    | COMMISSION MEMBER FILES: .....                     | 5  |
| REC-7.    | CONTINUING EDUCATION CERTIFICATIONS:.....          | 6  |
| REC-8.    | CONTINUING EDUCATION RECORDS: .....                | 6  |
| REC-9.    | CONTINUING EDUCATION RECORDS, OTHER STATES: .....  | 7  |
| REC-10.   | CONTRACTS AND AGREEMENTS: .....                    | 7  |
| REC-11.   | DECLARATORY RULINGS: .....                         | 8  |
| REC-12.   | EXAMINATION RECORDS: .....                         | 8  |
| REC-13.   | FINANCIAL STATEMENTS:.....                         | 9  |
| REC-14.   | HEARING FILES, COMMISSION:.....                    | 9  |
| REC-15.   | LICENSE DIRECTORY BOOKLETS: .....                  | 10 |
| REC-16.   | LICENSE FILES, INDIVIDUAL: .....                   | 10 |
| REC-17.   | LICENSE FILES, FIRMS:.....                         | 11 |
| REC-18.   | MINUTES, REAL ESTATE COMMISSION: .....             | 11 |
| REC-19.   | NEWSLETTER FILE: .....                             | 12 |
| REC-20.   | PROPERTY MANAGEMENT FILE: .....                    | 13 |
| REC-21.   | REGISTRATION FILES, SUBDIVISION/CONDOMINIUMS:..... | 14 |
| REC-21.1. | SURPLUS PROPERTY FILES: .....                      | 14 |
| REC-22.   | VOUCHERS:.....                                     | 15 |

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
(Std Form RM-1 Rev 1/03)

DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-1. ADMINISTRATIVE REFERENCE FILE:**

**08-008**

This series may be arranged by subject matter and contains information used in the daily administration of the program or office. Information may include, but is not limited to: budget, equipment, inventory, legislation, organization/association, and property management information; monthly reports; policies and procedures; reference manuals; logs; rules and regulations; mailing lists; general correspondence and any other related information. This record series is maintained for reference purposes.

**RETENTION:** Retain current in office. Destroy superseded or obsolete.

(Note: Cull files on a yearly basis to avoid build-up of superseded or obsolete materials.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
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| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-2. ADMINISTRATIVE RULE PROMULGATION FILES:**

**08-008**

This series contains notices of public hearings, affidavits of publication of notices, written comments from the public, and transcripts from the hearing. Files have little reference activity once their hearing has been held unless someone requests a copy of the transcript. Information serves to document the proper promulgation of administrative rules pursuant to SDCL 1-26.

**RETENTION:** Retain in office, for as long as rules are in effect, then destroy.

(NOTE: SDCL 1-26-7 states in part, that "Each agency shall keep the original records, documents, and instruments required by this chapter". There is no time frame included for these records. Since SDCL 1-26-6.8 provided that "No rule is enforceable in the courts unless properly adopted", the records must be maintained at least until a curative statute has been adopted by the Legislature similar to SDCL 1-26A-2, which cures all defects in adoption of rules appearing in the 1974 ARSD. Consider maintaining on microfilm instead of paper).

(Note: Previous record series number was RE-1.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
(Std Form RM-1 Rev 1/03)

DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION---RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|---|--|
|------------------------------------|---|--|

**REC-3. AUDIT REPORTS:**

**08-008**

This series is arranged chronologically, and contains audits of the Real Estate Commission fiscal records by private firms. Information may include: cover letters, statement of assets, revenues and expenditures, change of fund cash balances, overview of accounting practices, scope of audit, noted deficient areas, accounts summaries, observations, and recommendations. Reports are reviewed to identify problem areas and discrepancies so that corrective measures can be implemented. The auditing agency also maintains a copy of audit reports.

**RETENTION:** Retain 4 years in office, then destroy provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

(Note: Legislative Audit maintains reports permanent in office on microfilm).

(Note: Previous record series number was RE-4.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
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DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION---RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|---|--|
|------------------------------------|---|--|

**REC-4. AUDIT REPORTS, BROKERS:**

**08-008**

This series is arranged alphabetically by broker name and documents yearly examinations on trust accounts handled by each. Information may include: audit forms, bank reconciliation, list of licensed real estate broker associates or salespersons working under each broker, and closed sale file reviews. This record series is maintained to document the audit findings, to review when conducting new audits, and for reporting purposes.

**RETENTION:** Retain 4 years in office, then destroy provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

(Note: Previous record series number was RE-5.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
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DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <b>RECORD</b>            |   | <b>R.D.B.</b>           |
|--------------------------|---|-------------------------|
| <b><u>SERIES NO.</u></b> | <b><u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u></b> | <b><u>AUTHORITY</u></b> |
|                          |   | <b><u>NUMBER</u></b>    |

**REC-5. CASH RECEIPT AND DISBURSEMENT JOURNALS:**

**08-008**

This series is arranged chronologically and contains journals listing all revenue received and expenses paid. Information may include: date, amount, form of payment, and check number. This record series is used for accounting and audit purposes.

**RETENTION:** Retain 4 years, then destroy provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

(Note: Previous record series number was RE-8.)

**REC-6. COMMISSION MEMBER FILES:**

**08-008**

This series is arranged alphabetically, and contains information regarding individual commission members. Information may include: letter of appointment, term, expiration date, and correspondence. This record series is maintained to document member appointments to the Real Estate Commission and any related information pertaining to each.

**RETENTION:** Retain current in office. Destroy 3 years after terminated provided sufficient data on hours worked and compensation received is maintained by the Department of Labor, and provided 1 year has passed since an independent post-audit report has been received.

(Note: Previous record series number was RE-10.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
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DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-7. CONTINUING EDUCATION CERTIFICATIONS:**

**08-008**

This series is arranged alphabetically by name of applicant, and contains information documenting requisite education required to apply for and maintain a real estate license. Information may include: applicant names, courses attended, date of courses, name and address of schools, certifications, school affidavits, authorizing signatures, and notary seals. This record series is maintained to ensure proper continuing education is received by all licensed brokers and salesmen.

**RETENTION:** Retain 4 years in office, then destroy.

(Note: Previous record series number was RE-12.)

**REC-8. CONTINUING EDUCATION RECORDS:**

**08-008**

This series is arranged alphabetically by school or seminar name, which are approved to offer continuing education courses in real estate. Information may include: school or seminar name, course information, samples of text or handouts, correspondence, course outlines, names of participants, dates, and credit given. This record series is used to annually certify classes, to review course data, and list agents who have successfully completed the course.

**RETENTION:** Retain 4 years in office, then destroy.

(Note: Continuing education is posted to licensee database as well as education database.)

(Note: Previous record series number was RE-13.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
(Std Form RM-1 Rev 1/03)

DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-9. CONTINUING EDUCATION RECORDS, OTHER STATES:**

**08-008**

This series is arranged alphabetically, and contains information on continuing education courses certified by each state. Information may include: topic materials, course outlines, and sponsor names. This records series is used for reference concerning continuing education classes certified by other states, and as a source of new education materials.

**RETENTION:** Retain 4 years in office, then destroy.

(Note: Previous record series number was RE-14.)

**REC-10. CONTRACTS AND AGREEMENTS:**

**08-008**

This series contains the original contracts and agreements between the Real Estate Commission and other parties. Information may include: terms and conditions of agreements, effective dates, costs, and funding sources. This record series is kept for reference and documentation purposes.

**RETENTION:** Retain originals in office. Destroy 6 years after terminated provided no litigation is pending.

(NOTE: SDCL 1-24A-1 requires that a copy of all consultant contracts be filed with the State Auditor within 5 days after such contract is entered into and finally approved by contracting parties. All consultant contracts should be filed with the Office of State Auditor prior to work being performed).

(Note: Previous record series number was RE-15.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
(Std Form RM-1 Rev 1/03)

DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <b>RECORD</b>            |   | <b>R.D.B.</b>           |
|--------------------------|---|-------------------------|
| <b><u>SERIES NO.</u></b> | <b><u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u></b> | <b><u>AUTHORITY</u></b> |
|                          |   | <b><u>NUMBER</u></b>    |

**REC-11. DECLARATORY RULINGS:**

**08-008**

This series is arranged chronologically, and contains old declaratory rulings issued in the early 1970's by the Commission. Information may include: subject matter, scope, and policy set by the Commission. It is no longer used since the establishment of "Administrative Rules". This record series is maintained for historical value.

**RETENTION:** Retain until enacted into statute or administrative rule; or repealed by Commission, then destroy.

(Note: Previous record series number was RE-18.)

**REC-12. EXAMINATION RECORDS:**

**08-008**

This series is arranged chronologically and contains examination results. Information may include: testing company pass/fail score rosters broken down by school, and summary reports for each examination date. This record series is used for statistical purposes.

**RETENTION:** Retain 2 years in office, then destroy.

(Note: Previous record series number was RE-19.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
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DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-13. FINANCIAL STATEMENTS:**

**08-008**

This series contains the financial statements which provide an overview of the financial condition for a given fiscal year. Financial statements may include, but are not limited to: Statement of Revenues, Expenditures and Changes in Fund Balances-Budget and Actual, Statement of Assets and Fund Cash Balances, Statement of Fixed Assets, summary of significant accounting procedures, supplemental information, and working papers. This record series is maintained for reference and audit purposes.

**RETENTION:** Retain for 4 years, then destroy provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

(Note: Previous record series number was RE-20.)

**REC-14. HEARING FILES, COMMISSION:**

**08-008**

This series is arranged alphabetically by case name, and contains documentation of hearings held by the Real Estate Commission concerning violations by license holders. Information may include: violator's name, address, licensee number, the violation noted, the decision rendered by the Real Estate Commission, authorized signatures, and photographs. These transcripts and tape recordings serve to document all actions taken by the Commission for violations of Real Estate regulations.

**RETENTION:** Retain 5 years in office after closed, then destroy provided no appeals are pending.

(Note: Previous record series number was RE-21.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
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OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-15. LICENSE DIRECTORY BOOKLETS:**

**08-008**

This booklet is published yearly and contains an alphabetic listing of licensed real estate personnel. Information may include: license types, name, address, and license number. This record series is used as a quick reference regarding real estate licenses.

**RETENTION:** Retain one copy of the booklet 5 years in office, then destroy.

(Note: File thirteen copies of the published report with the State Library pursuant to SDCL 14-1A-3; and two copies with State Archives.)

(Note: Previous record series number was RE-23.)

**REC-16. LICENSE FILES, INDIVIDUAL:**

**08-008**

This series is arranged numerically by license number and contains records documenting all activity concerning licensed real estate brokers, broker associates, salespersons, auctioneers, home inspectors, property managers, residential rental agents, and timeshare agents in South Dakota. Information may include: applications, license numbers, license fee receipts, correspondence, examination score reports, and returned real estate licenses. This record series is used for basic reference when answering questions about licensees, and for renewal purposes.

**RETENTION:** Retain 5 years in office after license has been canceled, then destroy.

(Note: Previous record series number was RE-24.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
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DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-17. LICENSE FILES, FIRMS:**

**08-008**

This series is arranged numerically by license number and contains records documenting all activity pertaining to real estate firms licensed in South Dakota. Information may include: brokers who operate as a corporation, annual renewals list, all individuals who sell under the firm name, and name or address changes. This record series is used as the basic reference data when answering questions about firms, and renewal purposes.

**RETENTION:** Retain 5 years in office after license has been canceled, then destroy.

(Note: Previous record series number was RE-25.)

**REC-18. MINUTES, REAL ESTATE COMMISSION:**

**08-008**

This ring binder series is arranged chronologically, and contains the official minutes of all Real Estate Commission meetings. Information may include: date of meetings, members present, topics discussed and action taken. This record series is used for occasional reference and documentation purposes of actions taken by the commission.

**RETENTION:** Retain permanently in office.

(Note: Consider microfilming when volume warrants.)

(Note: Previous record series number was RE-29.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
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DIVISION: Secretary  
OFFICE: Boards and Commissions  
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RECORDS OFFICER: Monica Harding  
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| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION--RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|--|--|
|------------------------------------|--|--|

**REC-19. NEWSLETTER FILE:**

**08-008**

This series is arranged chronologically, and contains master copies of newsletters published by the Real Estate Commission. Information may include: date, topics discussed, and informational materials. Multiple copies are printed and distributed to all real estate license holders in South Dakota to pass on items of news worthiness, and to report changes in real estate rules and regulations.

**RETENTION:** Retain one copy of the newsletter 5 years in office, then destroy.

(Note: File thirteen copies of the published newsletter with the State Library pursuant to SDCL 14-1A-3; and two copies with State Archives.)

(Note: Previous record series number was RE-30.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
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DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION---RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|---|--|
|------------------------------------|---|--|

**REC-20. PROPERTY MANAGEMENT FILE:**

**08-008**

This series is arranged chronologically and documents all property maintained by the Commission. Information may include: copy of the Central Annual Inventory printout, file maintenance forms that will reflect changes in the inventory, inventory procedures manual, and surplus property received and transferred forms. This record series is maintained for property management and accountability purposes.

**RETENTION:** Retain Central Annual Inventory and maintenance forms 4 years, then destroy provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

Retain inventory procedure manual current in office. Destroy superseded or obsolete.

(Note: Consider receiving Central Annual Inventory on computer output microfiche (COM) and maintaining fiche in office the entire time prior to disposal.)

(Note: Previous record series number was RE-34.)

STATE OF SOUTH DAKOTA  
RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
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DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
RM CUSTOMER #: 0203

| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION---RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|---|--|
|------------------------------------|---|--|

**REC-21. REGISTRATION FILES, SUBDIVISION/CONDOMINIUMS:**

**08-008**

This series is arranged numerically and contains registration applications for developers or sellers of subdivisions and condominiums. Information may include: active and inactive registration folders, applications, registration numbers, abstracts, load titles, documentation, inspection reports, complaints, board actions, court records, correspondence, and notices of intention to sell. This record series is maintained to document approval granted to develop subdivisions/condominiums, and for reference and statistical purposes.

**RETENTION:** Retain 5 years after last action, then destroy.

(Note: Previous record series number was RE-36.)

**REC-21.1. SURPLUS PROPERTY FILES:**

**09-012**

This series contains the form submitted to the director of South Dakota Property Management for approval to dispose of State-owned personal property and the written notification received from Property Management designating the manner of disposal. Information may include: agency name; date; address or location of property; phone number; name of individual requesting; Property Management Officer's name; description of item(s); quantity; serial number; equipment number; desired method of disposal as authorized; reason for declaring property as surplus; estimate of current value; suggested selling price; minimum acceptable price; statement of content; fixed asset number, if applicable; and any other information deemed necessary. This record series is maintained pursuant to SDCL 5-24A.

**RETENTION:** Retain 1 year in office, then transfer to storage for 3 years. Destroy after 4 years provided all litigation, claims, and audit findings involving the records have been resolved and final action has been taken.

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RECORDS RETENTION &  
DESTRUCTION SCHEDULE  
AUTHORIZATION FORM  
(Std Form RM-1 Rev 1/03)

DEPARTMENT: Labor and Regulation  
DIVISION: Secretary  
OFFICE: Boards and Commissions  
PROGRAM: Real Estate Commission  
RECORDS OFFICER: Monica Harding  
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| <u>RECORD</u><br><u>SERIES NO.</u> | <u>TITLE---DESCRIPTION---RETENTION AND DESTRUCTION SCHEDULE</u> | <u>R.D.B.</u><br><u>AUTHORITY</u><br><u>NUMBER</u> |
|------------------------------------|---|--|
|------------------------------------|---|--|

**REC-22. VOUCHERS:**

**08-008**

This series is arranged numerically, and may contain copies of travel, non-cash, direct, receiving, and journal vouchers. Each voucher may include: the reason for which the money was expended, the amount, the fund expended from, date, who the funds went to or what account they were transferred to, and the authorized signatures. This record series is used for reference to determine quantities and descriptions of supplies and services ordered, for vendor information, and audit purposes.

**RETENTION:** Retain 4 years in office, then destroy provided all litigation, claims, and audit finding involving the records have been resolved and final action has been taken.

(Note: Previous record series number was RE-38.)