

Petition of Personal Representative for Leave to Sell Property

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when a personal representative or temporary administrator petitions for leave to sell real or personal property pursuant to O.C.G.A. §53-8-13.
2. If the petition is by “temporary administrator”, this form should be altered as follows: The term "temporary administrator" should be placed wherever the term “Personal Representative” or “Administrator” appears throughout the entire form. Also if the form is used for a temporary administrator, the Final Order may need to be amended, especially if the original order of appointment did not give the power to sell property.
3. With regard to paragraph 6 of the petition, a recent appraisal should be used if available; otherwise, a copy of the most recent ad valorem tax statement should be provided. If the appraised value or tax value is higher than the selling price, explain the discrepancy on an additional sheet, and add a reference to this in paragraph 4 of the petition. In addition, if there is a sales contract, a copy of the contract should be attached as Exhibit A.
4. Signatures of those who acknowledge service must be attested by a notary public or the clerk of any probate court of this state. An attorney at law may acknowledge service on behalf of his/her client; however, the attorney must certify that he or she currently represents that individual with regard to the pending matter and, in order to comply with O.C.G.A. §53-11-6, the attorney’s signature must be attested as provided above. It is not necessary that all acknowledgements appear on the same page.
5. O.C.G.A. §53-11-2 provides that a party to a probate proceeding who is not sui juris must be represented by a guardian provided that the court may appoint a guardian ad litem or determine that the natural guardian, guardian of the person or property, or testamentary guardian has no conflict and may serve.
6. In the event the assets are to be distributed according to a will, only the beneficiaries need to be listed in paragraph 2. In the event the Decedent died Intestate (without a Will), paragraph 3 requires that a definitive statement be made to show to the court that the persons named in paragraph 2 constitute all of the heirs of the decedent and that there are no heirs of the same or closer degree according to O.C.G.A. §53-2-1. Provide the date of death for any deceased heirs. The Personal Representative of a deceased heir is authorized to consent on behalf of that heir. NOTE: If you are uncertain how to determine the heirs of a decedent, refer to the “Heirs Determination Worksheet” available from the probate court or

at www.gaprobate.org. Examples of such statement would be: (a) “decendent was or was not married at the time of his death and had no children born, adopted, living or deceased, other than listed herein”; (b) “decendent had no other siblings half or whole other than those listed herein”; (c) “the decendent’s brother who died previously, had no other children born, adopted, living or deceased, other than listed herein.”

7. The service of this petition is in accordance with Chapter 11 of Title 53 per O.C.G.A §53-8-13 (b).

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court, labeled GPCSF 1.

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
DECEASED)

PETITION FOR LEAVE TO SELL PROPERTY

The petition of _____,
whose physical address(es) is/are _____,
Street City County State Zip Code
and mailing address(es) is/are _____,
Street City County State Zip Code
as the duly appointed and qualified Personal Representative of the Estate of the above named
decendent, shows to the Court the following:

1.

(Full name of decedent) First Middle Last
whose place of domicile was _____,
Street City County State
departed this life on _____, 20____.

2.

If decedent died intestate (without a Will), list below all of the decedent's heirs at law. Otherwise beneficiaries shall be listed below. Each listing should include the name, age or majority status, address, and relationship to decedent. All those listed are sui juris (having the legal ability to manage one's own affairs) unless otherwise noted.

Name	Age (or over 18)	Address	Relationship

3.

- _____ (a) A Will has been probated so no definitive statement is required.
- _____ (b) The decedent died intestate (without a Will); therefore, a definitive statement is made below.

REQUIRED: Provide sufficient factual information to enable the court to conclude that all of the heirs of the decedent are included and that there are no heirs of similar or higher degree according to O.C.G.A. §53-2-1. Provide the names of any deceased heirs and include the date of death for each. (See instructions for further clarification.) Also, state here all pertinent facts which may govern the method of giving notice to any party and which may determine whether or not a guardian ad litem should be appointed for any party. Indicate the deceased ancestor through whom an heir is related to the decedent, when applicable.

4.

Petitioner(s) desire(s) to sell certain real and/or personal property of said estate. The property and the estate's interest in said property are described as follows (give metes and bounds description, and street address if known, if real property):

5.

The specific purpose of said sale of said property is (check all which apply):

- _____ (a) To pay the debts of the estate and/or
 - _____ (b) To make distributions to the (heirs)(beneficiaries)
 - _____ (c) Other: _____
-

6.

The petitioner(s) desire(s) to sell said real and/or personal property upon the following terms and conditions [explain the proposed date, place and method of sale, including any minimum sales prices, and attach and label copies of any applicable contracts]: _____

(a) Attached hereto as Exhibit A is a copy of the contract for sale of real estate.

(b) Attached hereto as Exhibit B is a copy of the most recent ad valorem tax or appraisal showing the current value of the property to be \$_____.

7.

At present, the petitioner(s) has/have a bond on file in this Court in the amount of \$_____. The net proceeds to the estate from the sale of the subject property will be approximately \$_____. An additional bond in the amount of \$_____ to cover the amount by which the net proceeds from the sale, plus the amount of personal property currently in the estate, will exceed the current bond amount will be posted prior to the deadline for objections set forth in the notice.

8.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission.

WHEREFORE, petitioner(s) pray(s)

1. An order directing notice be issued and served as the law requires, and
2. If no cause be shown to the contrary, your petitioner(s) be granted leave to sell said property as set forth above.

_____ Signature of First Petitioner	_____ Signature of Second Petitioner, if any
_____ Printed Name	_____ Printed Name
_____ Mailing Address	_____ Mailing Address
_____ Telephone Number	_____ Telephone Number
Signature of Attorney	_____
Printed Name of Attorney	_____
Address	_____

Telephone Number	_____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned Petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing petition (and the attached exhibits) are true.

Sworn to and subscribed before me this
_____ day of _____, 20____.

Signature of First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of First Petitioner

Sworn to and subscribed before me this
_____ day of _____, 20____.

Signature of Second Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Second Petitioner

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
DECEASED)

ORDER FOR SERVICE OF NOTICE

The foregoing petition of personal representative for leave to sell property having been filed, it is ordered that: (Initial any and all of the following which apply):

_____ Notice must be served personally, together with a copy of the petition, at least ten (10) days before the deadline for objections on the following (heirs)(beneficiaries) who reside in Georgia and have not acknowledged service:

_____ Notice must be served by registered or certified mail, return receipt requested, together with a copy of the petition, upon nonresident (heirs)(beneficiaries) whose current residence addresses are known:

_____ Notice must be published once a week for four (4) weeks in the newspaper in which sheriffs advertisements are published in this county, before _____ 20____ in order to serve by publication the following (heirs)(beneficiaries) whose current residence addresses are unknown or [who are unknown]:

SO ORDERED this _____ day of _____, 20_____.

Judge of the Probate Court

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
DECEASED)

ANSWER OF GUARDIAN AD LITEM

I hereby accept the foregoing appointment, acknowledge service and notice of the proceedings as provided by law, and for answer say:

This _____ day of _____, 20____.

Signature of Guardian Ad Litem (GAL): _____

Typed/printed name of GAL: _____

Address: _____

Telephone Number: _____

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
_____,)
DECEASED)

NOTICE
(Strike any paragraph if not applicable.)

TO: _____
(List here all interested parties having known addresses in the continental U.S. to be served by certified or registered mail)

This is to notify you to file objection, if there is any, to the above referenced petition, in this Court on or before the thirteenth (13th) day after _____, 20____ (the date of the mailing of this Notice to you by certified or registered mail, return receipt requested); provided, however, that if a return receipt for such Notice is actually received by the Court within such thirteen (13) days, the deadline for the filing of any objection shall be ten (10) days from the date of receipt shown on such return receipt.

This is further to notify _____,
(List here all interested parties who reside in Georgia to be served personally or by certified mail with restricted delivery to the addressee, if specifically requested by the petitioner)

who are required to be served personally, to file objection, if there is any, to the above referenced petition, in this Court on or before the tenth (10th) day after the date you are personally served or sign the return receipt.

BE NOTIFIED FURTHER: All objections to the petition must be in writing, setting forth the grounds of any such objections. All pleadings/objections must be signed before a notary public or before a probate court clerk, and filing fees must be tendered with your pleadings/objections, unless you qualify to file as an indigent party. Contact probate court personnel at the following address/telephone number for the required amount of filing fees. If any objections are filed, a hearing will be (held on _____, 20__) (scheduled at a later date). If no objections are filed, the petition may be granted without a hearing.

Address

Judge of the Probate Court
By: _____
Clerk/Deputy Clerk of the Probate Court

Telephone Number

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
DECEASED)

NOTICE
(Strike any paragraph if not applicable.)

TO: _____
(List here all interested parties having known addresses outside the continental U.S. to be served by certified or registered mail)

This is to notify you to file objection, if there is any, to the above referenced petition, in this Court on or before the thirtieth (30th) day after _____, 20____ (the date of the mailing of this Notice to you by certified or registered mail, return receipt requested); provided, however, that if a return receipt for such Notice is actually received by the Court within such thirty (30) days, the deadline for the filing of any objection shall be ten (10) days from the date of receipt shown on such return receipt.

TO: _____
(List here all interested parties having unknown addresses to be served by publication)

This is to notify you to file objection, if there is any, to the above referenced petition, in this Court on or before _____, 20_____.

BE NOTIFIED FURTHER: All objections to the petition must be in writing, setting forth the grounds of any such objections. All pleadings/objections must be signed before a notary public or before a probate court clerk, and filing fees must be tendered with your pleadings/objections, unless you qualify to file as an indigent party. Contact probate court personnel at the following address/telephone number for the required amount of filing fees. If any objections are filed, a hearing will be (held on _____, 20____) (scheduled at a later date). If no objections are filed, the petition may be granted without a hearing.

Address

Telephone Number

Judge of the Probate Court
By: _____
Clerk/Deputy Clerk of the Probate Court

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
DECEASED)

CERTIFICATE OF SERVICE

I certify that I have on this date mailed, unless otherwise noted, in an envelope with the proper postage affixed thereto for first-class mail delivery copies of the _____
_____ to the following parties at the addresses below:

This ____ day of _____, 20 ____.

Clerk/Deputy Clerk of the Probate Court

Address

Telephone Number

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
)
_____,)
DECEASED)

**ACKNOWLEDGMENT OF SERVICE
AND CONSENT TO PETITION**

RE: PETITION OF _____ FOR LEAVE TO
SELL PROPERTY OF ESTATE OF THE ABOVE NAMED DECEDENT.

We, the undersigned, being over 18 years of age, laboring under no legal disability and being heirs or beneficiaries of the above-named decedent, hereby acknowledge service of a copy of the petition and notice, waive copies of same, waive further service and notice, and hereby consent to the petition.

SIGNATURE(S) OF (HEIRS)(BENEFICIARIES)

Sworn to and subscribed before me this _____
_____ day of _____, 20____. Signature _____

NOTARY/ CLERK OF PROBATE COURT Printed Name
My Commission Expires _____

Sworn to and subscribed before me this _____
_____ day of _____, 20____. Signature _____

NOTARY/ CLERK OF PROBATE COURT Printed Name
My Commission Expires _____

Sworn to and subscribed before me this _____
_____ day of _____, 20____. Signature _____

NOTARY/ CLERK OF PROBATE COURT Printed Name
My Commission Expires _____

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
DECEASED)

PETITION OF PERSONAL REPRESENTATIVE FOR LEAVE TO SELL PROPERTY
FINAL ORDER

The petition of _____, as Personal Representative of the estate of the above name decedent, to sell the property described in the petition, owned by said Estate for the purpose stated in the petition, coming on regularly to be heard; and

IT APPEARING that each (heir) (beneficiary) has been lawfully served with proper notice or has acknowledged service; and

IT APPEARING that the purpose of the transaction is lawful and that the proposed transaction is fair and is in the best interest of the Estate (and the guardian ad litem having filed an answer approving said transaction);

IT IS HEREBY ORDERED that the said Petitioner, as Personal Representative of said Estate, is authorized to sell the property described in the petition upon the terms set forth in said petition.

IT IS FURTHER ORDERED that a report of the sale authorized by this Order shall be furnished to this Court by the Petitioner. Said report shall specify the property sold, the purchasers, the amounts received, and the terms of the sale.

SO ORDERED this _____ day of _____, 20____.

Judge of the Probate Court