

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used by an administrator who has already been appointed when filing a petition for waiver of bond and/or grant of certain powers pursuant to O.C.G.A. §53-7-1(b).
2. Unanimous consent of the heirs to the administrator's petition is required. O.C.G.A. §53-11-2 provides that a party to a probate court proceeding concerning a decedent's estate who is unborn or unknown or 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. (See GPCSF 16). For purposes of the consent required, with respect to any heir who is not sui juris, such consent may be given by such guardian. The personal representative of a deceased heir is authorized to consent on behalf of that heir.
3. Use of this form by an executor is permissible, but not mandatory, in connection with a petition pursuant to O.C.G.A. §53-7-1 for the grant of certain powers to the executor of a will which omits, but does not expressly prohibit the grant of, any of the powers in O.C.G.A. §53-12-232. Such executor must aver that each of the foregoing conditions are met and that all of the beneficiaries under the will who would be affected by the grant of any power sought have unanimously consented to the grant of such power. Such consents must be attached to the petition. Appropriate changes must be made if this form is used. The same rules apply to affected beneficiaries who are not sui juris as stated above with respect to heirs who are not sui juris.
4. Notice must be published once a week for four weeks.
5. The relief sought in this petition and provided in the order is not retroactive.
6. If bond has been posted, and waiver of bond is sought for the future, check with the bonding compan(y)(ies) to obtain the necessary bond description to be placed in the petition and order and to coordinate this matter with the bonding compan(y)(ies).
7. The attached form consists of 5 pages.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

**PETITION BY ADMINISTRATOR FOR WAIVER OF BOND
AND/OR GRANT OF CERTAIN POWERS**

GEORGIA, _____ COUNTY

To the Honorable Judge of the Probate Court:

The petition of _____, duly qualified administrator of the estate of _____, deceased, shows to the Court that:

1.

Petitioner was issued letters of administration concerning the above-referenced estate by this Court on _____.

2.

Listed below are all of the heirs of the decedent:

3.

All of the heirs have consented that the judge of the probate court may waive the bond and/or grant certain powers as set forth in the Consent of Heirs attached hereto.

4.

Wherefore petitioner prays that the Court grant the relief requested in the Consent of Heirs attached hereto.

Signature of Attorney (or petitioner if pro se)

Address:

Telephone Number:

State Bar #:

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner who on oath states that the facts set forth in the foregoing petition are true.

Signature of Petitioner

Residence Address:

Telephone Number:

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

Clerk of Probate Court or Notary Public

CONSENT OF HEIRS

Note: If an heir is not sui juris, indicate the relationship of the person who is authorized to consent for him in accordance with the instruction page to this form.

We, being all of the heirs of the estate of _____, deceased, and being sui juris unless otherwise indicated, do hereby authorize the judge of the probate court to:

(Check **all** which apply):

- _____ a. waive the necessity of bond of this administrator from the date of the order on this petition forward, and grant to the administrator the power to serve without making and filing inventory if not yet due, and without filing any annual or other returns or reports covering any period from the date of such order forward to any court; but the fiduciary shall in the future furnish to the income beneficiaries, at least annually, a statement of receipts and disbursements. The present bond of the administrator dated _____, number _____ written by _____, surety, in the amount of \$_____ may be reduced to zero (\$0) as of the date of the order on this petition. The foregoing authorization is given upon the following conditions: The administrator's surety shall be relieved of all liability from the date of the order on this petition forward, except liability for any waste or misconduct by the administrator which occurred before the date of such order, and with respect to such continuing liability the surety shall not be relieved until the administrator has been discharged as provided by law. Further, the administrator must file a return with this court within 60 days from the date of such order covering the period from his most recent return, if any, up to the date of such order. A copy of such return shall be sent by first class mail by the administrator to all of the heirs and known creditors of the estate at the time such return is filed. Objections to such return may be filed within 30 days after such return is filed with the court. If such notice is not given, or if any objection is made and sustained by the court, the court may withdraw from the date the administrator failed to give such notice or from the date of its order on such objections any relief granted upon this petition.
- _____ b. grant to the administrator for the future all of the powers contained in O.C.G.A. §53-12-232 not included in (a) above.

_____ c. grant to the administrator for the future only those certain powers contained in O.C.G.A. §53-12-232 which are set forth in Exhibit "A" attached to the petition.

SIGNATURE(S) OF HEIRS

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

NOTARY/CLERK OF PROBATE COURT

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

NOTARY/CLERK OF PROBATE COURT

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

NOTARY/CLERK OF PROBATE COURT

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

NOTARY/CLERK OF PROBATE COURT

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

NOTARY/CLERK OF PROBATE COURT

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

NOTARY/CLERK OF PROBATE COURT

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

NOTARY/CLERK OF PROBATE COURT

ORDER FOR PUBLICATION

Probate Court of _____ County

Upon reading the foregoing petition, it is ordered that notice be issued and published once a week for four weeks prior to the date on which objections must be filed.

Date

Judge of the Probate Court

NOTICE

GEORGIA, _____ COUNTY PROBATE COURT

_____ has petitioned for waiver of bond and/or for the grant of certain powers contained in O.C.G.A. §53-12-232 to the administrator of the estate of _____, deceased. All interested parties are hereby notified to show cause why said petition should not be granted. All objections to the petition must be in writing, setting forth the grounds of any such objections, and must be filed with the court on or before _____, _____. If any objections are filed, a hearing will be (held on _____)(scheduled for a later date). If no objections are filed, the petition may be granted without a hearing.

Clerk of the Probate Court

RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) RE: PETITION BY ADMINISTRATOR
DECEASED) FOR WAIVER OF BOND AND/OR
) GRANT OF CERTAIN POWERS
)

FINAL ORDER

The petition for waiver of bond and/or grant of certain powers contained in O.C.G.A. §53-12-232 to the administrator of the estate of _____, deceased, has been duly filed. Consent to the petition was given by all heirs. Notice was published according to law and no objection to the petition has been filed.

It is therefore ordered that the undersigned judge does hereby:

(Initial all which apply):

- _____ a. waive the necessity of bond of this administrator from the date of this order forward, and grant to the administrator the power to serve without making and filing inventory if not yet due, and without filing any annual or other returns or reports covering any period from the date of this order forward to any court; but the fiduciary shall in the future furnish to the income beneficiaries, at least annually, a statement of receipts and disbursements. The present bond of the administrator dated _____, number _____ written by _____, surety, in the amount of \$ _____ is hereby reduced to zero (\$0) as of the date of this order. The foregoing relief is given upon the following conditions: The administrator's surety shall be relieved of all liability from the date of this order forward, except liability for any waste or misconduct by the administrator which occurred before the date of this order, and with respect to such continuing liability the surety shall not be relieved until the administrator has been discharged as provided by law. Further, the administrator must file a return with this court within 60 days from the date of this order covering the period from his most recent return, if any, up to the date of this order. A copy of such return shall be sent by first class mail by the administrator to all of the heirs and known creditors of the estate at the time such return is filed. Objections to such return may be filed within 30 days after such return is filed with the court. If such notice is not given, or if any objection is made and sustained by the court, the court may withdraw from the date the administrator failed to give such notice or from the date of its order on such objections any relief granted upon this petition.
- _____ b. grant to the administrator from the date of this order forward all of the powers contained in O.C.G.A. §53-12-232 not included in (a) above.
- _____ c. grant to the administrator from the date of this order forward only those certain powers contained in O.C.G.A. §53-12-232 which are set forth in Exhibit "A" attached to the petition.

FURTHER ORDERED that Letters of Administration reflecting the above be issued to the administrator.

Date

Judge of the Probate Court

**CERTIFICATE IN ACCORDANCE WITH
UNIFORM PROBATE COURT RULE 21(F)**

I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled **Petition by Administrator for Waiver of Bond and/or Grant of Certain Powers**, except for additions or deletions indicated as required by the Uniform Probate Court Rules.

Date

Signature of Attorney
Address:

Telephone Number:
State Bar#: