

Petition for Letters of Administration

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for a petition for letters of administration pursuant to O.C.G.A. §53-6-20, et seq.
2. Use of this form is permissible, but not mandatory, in connection with a petition for appointment of a successor administrator, pursuant to O.C.G.A. §53-6-21(b). Appropriate interlineations must be made, and additional information must be given concerning the identity of the previous administrator, the reason for the vacancy in the office, and the date the office became vacant.
3. With respect to the conditions under which the judge may, pursuant to O.C.G.A. §53-7-1(b), waive bond and/or grant certain powers contained in O.C.G.A. §53-12-261, please note:
 - (a) All of the heirs must consent, and
 - (b) Notice must be published.
4. O.C.G.A. §53-11-2 provides 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 described in paragraph 3 above, 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.
5. Paragraph 4 requires that a definitive statement that the list in Paragraph 3 includes each and every heir 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. NOTE: If you are uncertain how to determine the heirs of a decedent, please refer to the "Heirs Determination Sheet" available from the probate court or at www.gaprobate.org. Examples of such statement would be: (a) "decedent 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) "decedent had no other siblings half or whole other than those listed herein"; (c) "the decedent's brother who died previously, had no other children born, adopted, living or deceased, other than listed herein."
6. According to Probate Court Rule 5.6 (A), unless the court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. All pages after page 5 labeled court documents are to be completed by the moving party, unless otherwise directed by the court.

II. General Instructions

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

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) PETITION FOR LETTERS OF
DECEASED) ADMINISTRATION

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____ whose domicile
is/are _____, and whose mailing
address(es)is/are _____
_____ shows:

1.

_____, whose
First Middle Last Name
domicile was _____,
Street City County State

departed this life on _____, 20_____, intestate, leaving an estate of real property
located in _____ County(ies), Georgia, having
a total fair market value of approximately \$ _____ and personal property as follows
(provide approximate value):

- a. cash/bank accounts/certificates of deposit \$ _____
 - b. stocks/bonds/brokerage accounts \$ _____
 - c. other assets of significant value (list) \$ _____
- _____
- _____
- _____

APPROXIMATE TOTAL \$ _____

2.

Under the law, it is necessary that said estate be administered; and _____

_____ should be appointed Administrator(s) by reason of (initial one):

- _____ a. being unanimously selected by all the heirs. (This alternative does not apply if the surviving spouse is the sole heir and an action for divorce or separate maintenance was pending at the time of decedent's death.)
- _____ b. being the surviving spouse where no action for divorce or separate maintenance was pending at the time of decedent's death.
- _____ c. being (an) heir(s) and not the surviving spouse.
- _____ d. having been selected by a majority in interest of the heirs.
- _____ e. being (an) eligible person(s) as defined by O.C.G.A. §53-6-1.
- _____ f. being (a) creditor(s) of the decedent (evidence of the indebtedness is attached).
- _____ g. being the county administrator.

3.

Listed below are the names of all the decedent's heirs with the age or majority status, address, and relationship to decedent set opposite the name of each:

Name	Age (or over 18)	Address	Relationship

4.

Required: Make a definitive statement with 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. If any heirs listed above are cousins, grandchildren, nephews or nieces of the decedent, please indicate the deceased ancestor through whom they are related to the decedent.

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

5.

(Petitioner(s) MUST initial one):

_____ (a) All heirs have consented to the waiver of bond and/or grant of certain powers contained in O.C.G.A. §53-12-261 to the Administrator(s). Therefore, the Petitioner(s) hereby move(s) the Court to publish notice of the filing of the Petition and tender(s) with this Petition publication fees.

_____ (b) The identities and/or addresses of all heirs are not known. Therefore, the Petitioner(s) hereby move(s) the Court to publish notice of the filing of the Petition, and tender(s) with this Petition publication fees.

_____ (c) Notice of this Petition need not be published because the Petitioner(s) has/have listed all heirs at law and their addresses, and Petitioner(s) is/are not requesting a waiver of bond and returns or the grant of powers contained in O.C.G.A. § 53-12-261.

6.

To the knowledge of the petitioner(s), no other proceedings with respect to this estate are pending, or have been completed, in any other probate court in this state.

WHEREFORE, petitioner(s) pray(s) that

1. service be perfected and
2. that if no good cause is shown to the contrary, _____
_____ be appointed Administrator(s) of the estate
of said decedent.

Signature of first petitioner

Signature of second petitioner, if any

Printed Name

Printed Name

Address

Address

Telephone Number

Telephone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition 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

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

Signature of Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

**SELECTION BY HEIRS (AND CONSENT OF HEIRS TO WAIVER OF BOND
AND/OR GRANT OF CERTAIN POWERS)**

Note: If an heir is not sui juris, the guardian appointed by the Court or the person that the Court determined may act as guardian is authorized to consent for such non sui juris heir in accordance with the instruction page to this form.

GEORGIA, _____ COUNTY ESTATE NO. _____

We, being (all of the) heirs of the estate of _____, deceased, and being sui juris unless otherwise indicated, do hereby acknowledge service, waive all further notice, and select _____ to act as Administrator(s) of the estate of said decedent. Further, *if so indicated below*, we hereby grant to the Administrator(s) the additional powers contained in (a) and/or (b) below.

_____ a. (optional; initial if applicable) In addition to selecting the above individual, I hereby consent to the waiver of bond for said Administrator(s) and the grant to said Administrator(s) the power to serve without making and filing inventory and without filing an annual or other returns or reports to any court.

_____ b. (optional; initial if applicable) In addition to selecting the above individual, I hereby consent to the grant to the Administrator(s) all of the powers contained in O.C.G.A. §53-12-261 not included in (a) above.

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

SIGNATURE OF HEIR

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

PRINTED NAME

_____ a. (optional; initial if applicable) In addition to selecting the above individual, I hereby consent to the waiver of bond for said Administrator(s) and the grant to said Administrator(s) the power to serve without making and filing inventory and without filing an annual or other returns or reports to any court.

_____ b. (optional; initial if applicable) In addition to selecting the above individual, I hereby consent to the grant to the Administrator(s) all of the powers contained in O.C.G.A. §53-12-261 not included in (a) above.

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

SIGNATURE OF HEIR

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

PRINTED NAME

Petition for Letters of Administration

NOTICE:

**THE FOLLOWING PAGES ARE TO BE
COMPLETED BY THE PETITIONER
(MOVING PARTY) UNLESS OTHERWISE
DIRECTED BY THE COURT. SEE PROBATE
COURT RULE 5.6 (A).**

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) PETITION FOR LETTERS OF
DECEASED) ADMINISTRATION

**ORDER FOR SERVICE OF NOTICE AND APPOINTING
GUARDIAN AD LITEM, IF NECESSARY**

(initial applicable:)

_____ a. Since the heirs have not made a unanimous selection, or the Petitioner(s) has/have requested the waiver of bond and/or grant of certain powers,

IT IS ORDERED that notice be issued and served as follows upon each heir who did not acknowledge service. Notice of this petition must be mailed by first-class mail to each heir with a known address at least 13 days prior to the date on or before which any objection is required to be filed. If there is any heir whose current address is unknown, or if the heirs have unanimously requested the waiver of bond and/or grant of certain powers, notice must be published once each week for four weeks prior to the week which includes the date on or before which any objection must be filed.

_____ b. IT IS FURTHER ORDERED that _____ is appointed guardian ad litem for _____ (minor)(unborn heir)(unknown heirs of the above decedent) and that said guardian ad litem be duly served with a copy of the foregoing notice, petition, and notice of this appointment, and that upon said guardian ad litem's acceptance of same, said guardian ad litem shall make answer hereto. This appointment is limited to this proceeding only and it shall cease when a final order is entered on this petition.

SO ORDERED this _____ day of _____, 20_____.

Probate Judge

NOTICE

NOTE: Strike the sentence in parenthesis below if not applicable.

GEORGIA, _____ COUNTY PROBATE COURT

TO: (any heir whose current address is unknown) _____

_____ has petitioned (for _____) to be appointed Administrator(s) of the estate of _____, deceased, of said County. (The petitioner has also applied for waiver of bond and/or grant of certain powers contained in

O.C.G.A. §53-12-261.) 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 _____, 20____. 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.

PROBATE JUDGE

By: _____
PROBATE CLERK/DEPUTY CLERK

ADDRESS

TELEPHONE NUMBER

CERTIFICATE OF MAILING

I do hereby certify that I have this day mailed by first-class mail a copy of the Notice in this matter to each heir with a known current address, as listed by the petitioner, who did not acknowledge service in an envelope, properly addressed and with adequate postage thereon, and deposited in the United States Mail, with the return address of this Court thereon.

DATE

PROBATE CLERK/DEPUTY CLERK

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) PETITION FOR LETTERS OF
DECEASED) ADMINISTRATION

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:

DATE

GUARDIAN AD LITEM

ADDRESS

TELEPHONE _____

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) PETITION FOR LETTERS OF
DECEASED) ADMINISTRATION

FINAL ORDER

The petition of _____ for issuance of Letters of Administration on the estate of _____, deceased, has been duly filed. Service was perfected according to law. It appears that said decedent died domiciled in said county, intestate; that _____ is/are lawfully qualified for said administration; and that no objection has been offered.

____ (Initial if applicable.) Such petition contained a request for waiver of bond and/or grant of certain powers contained in O.C.G.A. §53-12-261. The notice which was issued and published reflected this, and no objection to the request has been filed. Consent to such request was given by all heirs.

IT IS THEREFORE ORDERED that the undersigned judge does hereby:

(Initial all which apply:)

- ____ a. waive the bond of the Administrator(s) and grant to the Administrator(s) the power to serve without making and filing inventory, and without filing any annual or other returns or reports to any court; but the fiduciary(ies) shall furnish to the income beneficiaries, at least annually, a statement of receipts and disbursements.
- ____ b. grant to the Administrator(s) all of the powers contained in O.C.G.A. §53-12-261 not included in (a) above.

IT IS THEREFORE ORDERED that the person(s) found above in this order to be qualified for such office be, and is/are hereby, appointed Administrator(s) of the estate of said decedent, and that appropriate Letters be issued upon said Administrator's(s') (giving bond with approved surety in the sum of \$ _____ and) taking the oath as provided by law.

(Initial if applicable.)

____ IT IS FURTHER ORDERED that said Administrator(s) shall not make any distribution to a person for the benefit of a minor unless that person is qualified to receive such funds according to law.

SO ORDERED this _____ day of _____, 20____.

Probate Judge

OATH

Georgia, _____ County

I do solemnly swear or affirm that _____, deceased, died intestate, so far as I know or believe, and that I will well and truly administer on all the estate of the decedent, and disburse the same as the law requires, and discharge to the best of my ability all my duties as Administrator. So help me God.

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

Administrator

CLERK OF PROBATE COURT

Printed Name

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

Administrator

CLERK OF PROBATE COURT

Printed Name

INSTRUCTIONS

1. Unless inventory has been waived, an inventory of the estate must be filed with this Court by the Administrator within six (6) months after these letters are issued and a copy of that inventory must be delivered to the heirs by first-class mail within the same period.

2. Within sixty (60) days after these letters are issued, notice must be given once a week for four (4) weeks by advertisement in the newspaper in this County in which sheriff's notices are published, requiring creditors of the estate to render in their demands and requiring debtors to make payment.

3. Unless returns have been waived, or a different accounting period has been approved, within sixty (60) days after the anniversary date of issuance of these letters, in each and every year, every Administrator must make a just and true account, under oath, of his receipts and expenditures on behalf of the estate during the preceding year, together with a note or memorandum of any other fact necessary to the exhibition of the true condition of the estate. The vouchers showing the correctness of each item must be retained by the Administrator.

4. The Administrator is allowed six (6) months from the date of his qualification to ascertain the condition of the estate, during which he is exempt from suit. He should collect all debts due the estate, and pay the debts of the estate, wholly or in part, at the end of the six-month period. Payment of the debts of the decedent shall be made in accordance with their rank in priority as provided in O.C.G.A. §53-7-40.

5. The Administrator may continue the business of the estate for the current year without a court order.

6. The normal commissions allowed the Administrator are two and one-half percent (2.5%) of all sums of money received, and a like commission on all sums of money paid out. In addition, upon petition, the Judge of the Probate Court may allow a commission of up to three percent (3%) of the value of all property distributed in kind. There are special rules concerning commissions on interest earned and extra compensation.

7. After the payment of all expenses of administration and other debts, the balance of the estate shall be promptly distributed to the heirs. The Administrator must then make a final return, showing the receipts and disbursements since the last annual accounting, unless returns have been waived.

For further information see O.C.G.A. Title 53, Chapters 6 & 7.

STATE OF GEORGIA

COUNTY OF _____ ESTATE NO. _____

LETTERS OF ADMINISTRATION

(Bond Waived and/or Certain Powers Granted at Time of Appointment)

By _____, Judge of the Probate Court of said County.

WHEREAS, _____ died intestate (check one:)

- _____ domiciled in this County;
- _____ not domiciled in this State, but owning property in this County;

and this Court granted an order appointing _____ as Administrator(s) of the estate of said decedent, on condition that said Administrator(s) give oath as required by law; and the said Administrator(s) having complied with said condition; the Court hereby grants unto said Administrator(s) full power to collect the assets of said decedent, and to pay the debts of said estate, so far as such assets will extend, according to law, and then to pay over the balance, if any, to the heirs of said decedent, and to do and perform all other duties as such Administrator(s), according to the laws of this State. In addition, this Court has:

(Initial all which apply:)

- _____ a. waived the bond of the Administrator(s) and granted to the Administrator(s) the power to serve without filing an inventory, and without filing any annual or other returns or reports to any court; but the fiduciary shall furnish to the income beneficiaries, at least annually, a statement of receipts and disbursements.
- _____ b. granted to the Administrator(s) all of the powers contained in O.C.G.A. §53-12-261 not included in (a) above.

IN TESTIMONY WHEREOF, I have hereunto affixed my signature as Judge of the Probate Court of said County and the seal of this office this _____ day of _____, 20____.

Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

Clerk, Probate Court (Seal)

(SEE INSTRUCTIONS ON REVERSE SIDE)

INSTRUCTIONS

1. An inventory of the estate must be filed with this Court by the Administrator within six (6) months after these letters are issued, and, subject to Instruction 8. below, a copy of that inventory must be delivered to the sui juris heirs by first-class mail within the same period.

2. Within sixty (60) days after these letters are issued, notice must be given once a week for four (4) weeks by advertisement in the newspaper in this County in which sheriff's notices are published, requiring creditors of the estate to render in their demands.

3. Unless a different accounting period has been approved, within sixty (60) days after the anniversary date of issuance of these letters, in each and every year, every Administrator must make a just and true account, under oath, of his receipts and expenditures on behalf of the estate during the preceding year, together with a note or memorandum of any other fact necessary to the exhibition of the true condition of the estate. The vouchers showing the correctness of each item must be retained by the Administrator. Subject to Instruction 8. below, a copy of each such return must be delivered to the sui juris heirs by first-class mail within the same period.

4. The Administrator is allowed six (6) months from the date of his qualification to ascertain the condition of the estate, during which he is exempt from suit. He should collect all debts due the estate, and pay the debts of the estate, wholly or in part, at the end of the six-month period. Payment of the debts of the decedent shall be made in accordance with their rank in priority as provided in O.C.G.A. §53-7-40.

5. The Administrator may continue the business of his intestate for the current year without a court order.

6. The normal commissions allowed the Administrator are two and one-half percent (2.5%) of all sums of money received, and a like commission on all sums of money paid out. In addition, the Judge of the Probate Court may allow a commission of up to three percent (3%) of the value of all property distributed in kind. There are special rules concerning commissions on interest earned and extra compensation.

7. After the payment of all expenses of administration and other debts, the balance of the estate shall be promptly distributed to the heirs. The Administrator must then make a final return, showing the receipts and disbursements since the last annual accounting. Subject to Instruction 8. below, a copy of the final return must be delivered to the sui juris heirs by first-class mail at the time of filing same.

8. It shall not be necessary for the Administrator to mail copies of any annual returns or the final return to any heir or beneficiary who has individually waived in writing the right to receive copies of same unless and until such waiver is revoked in writing.

For further information see O.C.G.A. Title 53, Chapters 6 & 7.

STATE OF GEORGIA

COUNTY OF _____ ESTATE NO. _____

LETTERS OF ADMINISTRATION
(Bond, Inventory and Returns Required)

By _____, the Judge of the Probate Court of said County.

WHEREAS, _____ died intestate (check one:)

_____ domiciled in this County;

_____ not domiciled in this State, but owning property in this County;

and this Court granted an order appointing _____
as Administrator(s) of the estate of said decedent, on condition that said Administrator(s) give bond and security and give oath as required by law; and the said Administrator(s) having complied with said conditions; the Court hereby grants unto said Administrator(s) full power to collect the assets of said decedent, and to pay the debts of said estate, so far as such assets will extend, according to law, and then to pay over the balance, if any, to the legal heirs of said decedent, and to do and perform all other duties as such Administrator(s), according to the laws of this State.

IN TESTIMONY WHEREOF, I have hereunto affixed my signature as Judge of the Probate Court of said County and the seal of this office this _____ day of _____, 20_____.

Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

Clerk, Probate Court (Seal)

(SEE INSTRUCTIONS ON REVERSE SIDE)