

Petition by Personal Representative for Waiver of Bond and/or Grant of Certain Powers

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used by an administrator or executor 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, or the beneficiaries if the decedent died testate. 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. Notice must be published once a week for four weeks.
4. The relief sought in this petition and provided in the order is not retroactive.
5. 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).

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 BY PERSONAL
DECEASED)	REPRESENTATIVE FOR WAIVER
)	OF BOND AND/OR GRANT OF
)	CERTAIN POWERS

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____,
duly qualified personal representative(s) of the estate of _____,
deceased, shows:

1.

Petitioner(s) was/were issued letters of administration/letters testamentary concerning the above-referenced estate by this Court on _____.

2.

Listed below are all of the names, ages, addresses of the heirs of the decedent if he/she died intestate, and the beneficiaries listed in the decedent's Will, if he/she died testate, and relationship to decedent :

Name	Age (or over 18)	Address	Relationship

3.

All of the heirs/beneficiaries 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/Beneficiaries attached hereto.

4.

WHEREFORE petitioner(s) pray(s) that the Court grant the relief requested in the Consent of Heirs/Beneficiaries attached hereto.

Signature of first petitioner

Signature of second petitioner if any

Printed Name

Printed Name

Address

Address

Phone Number

Phone 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____.

First Petitioner

NOTARY/CLERK OF PROBATE COURT

Printed Name

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

Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT

Printed Name

CONSENT OF HEIRS/BENEFICIARIES

IN RE: ESTATE OF _____

ESTATE NO. _____

Note: If an heir/beneficiary 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 above estate or being beneficiaries under the Will of the above deceased, being sui juris unless otherwise indicated, do hereby authorize the judge of the probate court to:

- a. waive the necessity of bond of this personal representative from the date of the order on this petition forward, and grant to the personal representative 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. _____ **(initial if applicable)** SEE the Note below regarding applicable conditions/restrictions.
- b. grant to the personal representative for the future all of the powers contained in O.C.G.A. §53-12-232 not included in (a) above. _____ **(initial if applicable)**

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

SIGNATURE OF HEIR/BENEFICIARY

NOTARY/CLERK OF PROBATE COURT

PRINT NAME

a. waive the necessity of bond of this personal representative from the date of the order on this petition forward, and grant to the personal representative 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. _____ **(initial if applicable)** SEE the Note below regarding applicable conditions/restrictions.

b. grant to the personal representative for the future all of the powers contained in O.C.G.A. §53-12-232 not included in (a) above. _____ **(initial if applicable)**

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

SIGNATURE OF HEIR/BENEFICIARY

NOTARY/CLERK OF PROBATE COURT

PRINT NAME

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b. grant to the personal representative for the future all of the powers contained in O.C.G.A. §53-12-232 not included in (a) above. _____ (initial if applicable)

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

SIGNATURE OF HEIR/BENEFICIARY

NOTARY/CLERK OF PROBATE COURT

PRINT NAME

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b. grant to the personal representative for the future all of the powers contained in O.C.G.A. §53-12-232 not included in (a) above. _____ (initial if applicable)

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

SIGNATURE OF HEIR/BENEFICIARY

NOTARY/CLERK OF PROBATE COURT

PRINT NAME

NOTE: if the Petition is granted, the following restrictions/conditions will apply: 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 personal representative 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 personal representative'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 personal representative which occurred before the date of such order, and with respect to such continuing liability the surety shall not be relieved until the personal representative has been discharged as provided by law. Further, the personal representative 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 personal representative to all of the heirs, if the decedent was intestate, and beneficiaries, if the decedent died testate. 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 personal representative failed to give such notice or from the date of its order on such objections any relief granted upon this petition.