

Document: O.C.G.A. § 53-8-10

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Official Code of Georgia Annotated TITLE 53 Wills, Trusts, and Administration of Estates (Chs. 1 — 17)
CHAPTER 8 Investments, Sales, and Conveyances (Arts. 1 — 2) Article 2 Sales and Conveyances (§§ 53-8-10 — 53-8-15)

53-8-10. Authority of personal representative; petition by temporary administrator.

(a) Subject to the provisions of this article, a personal representative may sell, rent, lease, exchange, or otherwise

dispose of property, whether personal, real, or mixed, for the purpose of payment of debts, for distribution of the estate, or for any other purpose that is in the best interest of the estate; provided, however, that nothing in this article shall be construed to limit, enlarge, or change any authority, power, restriction, or privilege specifically provided by will or incorporated into a will or otherwise granted to the personal representative in accordance with the provisions of subsection (b) of Code Section 53-7-1.

(b) A temporary administrator is authorized to petition the probate court for leave to sell or otherwise deal with property of the estate following the procedures described in this article, provided that good cause is shown.

History

Code 1981, § **53-8-10**, enacted by Ga. L. 1996, p. 504, § 10; Ga. L. 2020, p. 377, § 1-55/HB 865.

▼ Annotations

Notes

Amendments.

The 2020 amendment, effective January 1, 2021, in subsection (a), substituted “estate,” for “estate;”, substituted “estate; provided, however,” for “estate, provided”; and, in subsection (b), substituted “article, provided, that” for “article; provided, however, that”.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2020, the comma after “article, provided” in subsection (b) was deleted.

Commentary

COMMENT

The provisions of this Article replace former Article 2 of Chapter 8 of Title 53. The new provisions generally authorize sales and other transactions with the property of the estate provided that the requirements outlined in the subsequent Code sections are met. These provisions apply only in those estates where the personal representative has not been granted broad powers to sell and otherwise deal with the estate property. Such powers may appear expressly in the will, may be made part of the will by the incorporation by reference of the powers contained in OCGA Sec. 53-12-232, or may be granted to the personal representative pursuant to Code Section 53-7-1(b). For other provisions relating to the power of Temporary Administrators, see Code Section 53-7-4 and Article 4 of Chapter 6 of this Title.

JUDICIAL DECISIONS

Administrator's deed proper. —

In a purchaser's quiet title action against the executor of a testator's estate, the trial court did not err in adopting the report of a special master and in decreeing that fee simple title to the land was vested in the purchaser because it was the clear intent of the testator to give to the testator's nephew a limited fee to the property based on the contingency that the nephew live on the property, and if the nephew did not, the property was to revert to the estate; the executor was obligated to give effect to the clear intent of the testator to convey only a limited fee to the nephew, and upon a nonoccurrence of the contingency stated in the will, the property automatically reverted to the estate, and the administrator's deed from the executor to the nephew referenced the testator's will and perfected the limited estate. *Mann v. Blalock*, 286 Ga. 541, 690 S.E.2d 375, 2010 Ga. LEXIS 145 (2010).

"Good cause" not shown. —

Probate court erred when the court failed to find that an estate's temporary administrator had "good cause" for the sale of estate property as required under O.C.G.A. § **53-8-10(b)**; the court's finding that the sale was in the "best interest of the estate" because the property was in disrepair and was costing the estate money was the standard applicable to personal representatives under § **53-8-10(a)**. *In re Estate of Price*, 324 Ga. App. 681, 751 S.E.2d 487, 2013 Ga. App. LEXIS 912 (2013).

Research References & Practice Aids

Hierarchy Notes:

O.C.G.A. Title 53

O.C.G.A. Title 53, Ch. 8

O.C.G.A. Title 53, Ch. 8, Art. 2

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