PETITION FOR LEAVE TO CONVEY OR ENCUMBER PROPERTY PREVIOUSLY SET APART AS YEAR'S SUPPORT

INSTRUCTIONS

I. Specific Instructions

- 1. This form is to be used when petitioning for leave to convey or encumber property set apart as year's support, pursuant to O.C.G.A. § 53-3-20.
- 2. This form is prepared on the assumption that the surviving spouse is the petitioner. If this is not the case, modify the form accordingly. The petition may be brought either by a surviving spouse who participated in the award or by the guardian of the property of a minor child who participated in the award.
- 3. 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 5 of the petition. In addition, if there is a sales contract, a copy of the contract should be attached to this petition as an exhibit.
- 4. According to Uniform 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 may be served according to law. All pages after the notice regarding Uniform Probate Court Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the Court.
- 5. Use GPCSF Supplement 3 when an additional certificate of service is necessary.
- 6. Exhibits should be labeled at the bottom of each exhibit as "Exhibit A," "Exhibit B," etc. in consecutive order. The corresponding letter of each said exhibit should be inserted into the appropriate place in the form.

7. Necessity for filing; venue

- a. Pursuant to O.C.G.A. § 53-3-19, it is not necessary to obtain probate court approval if the children for whom the award was made who are now sui juris will join in the conveyance or encumbrance, unless at least one of the children for whom the award was made is still a minor.
- b. Venue: The petition must be filed in the county where the year's support award was originally granted. O.C.G.A. § 53-3-19 (b).
- 8. Method of service pursuant to O.C.G.A. § 53-3-20 is required.
 - a. Adult children for whose benefit the year's support was set apart with known addresses in this State who do not acknowledge service shall be served personally not less than ten days prior to the date set for hearing.

- b. Signatures of those who acknowledge service must be sworn to before a notary public or the clerk of any probate court of this State. An attorney at law may acknowledge service on behalf of his or her client. However, such 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 sworn to as provided above. It is not necessary that all acknowledgments appear on the same page.
- c. Adult children for whose benefit the year's support was set apart with unknown addresses or residing out of this State who do not acknowledge service shall be served by:
 - i. Publication of notice in the legal organ one time not less than 30 days prior to the date set for hearing;
 - ii. Posting of notice at the courthouse not less than 30 days prior to the date set for hearing; and
 - iii. Mailing by First-Class Mail a copy of the notice to the last known address not less than 30 days prior to the date set for hearing.
- d. 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, conservator, or testamentary guardian has no conflict and may serve. If a guardian ad litem is necessary because a party is not sui juris, use GPCSF Supplement 1.

II. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each probate court or at www.gaprobate.gov, labeled GPCSF 1.

IN THE PROBATE COURT OF **COUNTY** STATE OF GEORGIA IN RE: ESTATE OF **DECEASED** PETITION FOR LEAVE TO CONVEY OR ENCUMBER PROPERTY PREVIOUSLY SET APART AS YEAR'S SUPPORT The petition of [Full name(s) of petitioner(s)] First Middle whose physical address(es) is/are Zip Code Street City County State and mailing address(es) is/are ___ Street City County State of the above-named decedent, shows to the Court the following: and being the Relationship [The petition may be brought either by a surviving spouse who participated in the award or by the conservator of a minor child who participated in the award.] 1. Middle [Full name of decedent] whose place of domicile was City County departed this life on , 20 . 2. On , 20 , the probate court of this county awarded a year's support to the petitioner and the following child(ren) of said decedent: Last Known Address Present Current Address (if current unknown) Name Age

3.

The year's support award included the following described real estate located in County, Georgia. A complete legal description of
such real property is:
4. It is necessary for petitioner to (convey)(encumber) said property for the purpose of:
5.
The nature and terms of said (conveyance)(encumbrance) are as follows:
[Initial (a) or (b)]
(a) Sale according to the conditions and terms of the contract.
(b) Encumbrance of the real property to secure a loan in the principal amount of \$
Attached hereto as "Exhibit" is a copy of the contract for, sale, lien, or encumbrance of real estate.
Attached hereto as "Exhibit" is a copy of the most recent ad valorem tax or appraisal showing the current value of the property to be \$

With respect to any child named in paragraph 2 above whose current address is shown as "unknown," petitioner certifies that the current address is unknown to petitioner and cannot be easily ascertained, and that the last known address for any such person is listed in paragraph 2.

WHEREFORE the petitioner prays in accordance with O.C.G.A. § 53-3-20:

- 1. That a hearing be set on this petition;
- 2. That a guardian ad litem be appointed to represent the minor children concerned; and
- 3. That the petition be granted after notice as required by law.

Signature of Petitioner	
Printed Name	
Mailing Address	
Telephone Number	
Signature of Attorney:	
Printed Name of Attorney:	
Address:	
Telephone Number:	State Bar #

VERIFICATION

GEORGIA,	_COUNTY	
states that the facts set forth in the	e foregoing peort heretofore	ersigned petitioner who, after being duly sworn etition for leave to convey or encumber property awarded from the estate of the above decedent as rue and correct.
Sworn to and subscribed before me day of		Signature of Petitioner
NOTARY/CLERK OF PROBATE My Commission Expires:	COURT	Printed Name of Petitioner

NOTICE

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT.

SEE UNIFORM PROBATE COURT RULE 5.6 (A).

IN TH	IE PROBATE CO	OURT OF			COUNTY
21 \ 22		STATE OF	GEOR	GIA	
IN RE: ESTATI		,)))	ESTATE NO.	
PETIT				R ENCUMBER PI YEAR'S SUPPOR	
	ORDE	R FOR SER	VICE (OF NOTICE	
personally pursua 18 or over and ha are unknown who shall be published posted at the cou	ant to O.C.G.A. § ave not acknowledge are age 18 or over done time at least rthouse and served	53-11-3 upon ged service. It and have not 30 days prior d to the last k	all chi f there acknow to the nown a	ldren with known a are any children wh vledged service, the hearing, and a copy	e issue and be served addresses who are age nose current addresses in the following notice of the notice shall be the children at least 30 9-17.
This	day of	, 20	_·		
		.	Judge o	f the Probate Court	

IN THE PROBATE COUR	RT OF	COUNTY
ST	ATE OF GEOR	RGIA
IN RE: ESTATE OF)	
DECEASED	,)	ESTATE NO
DECEASED		
		R ENCUMBER PROPERTY YEAR'S SUPPORT
	NOTICE	
To:		
		and to whom it may concern:
	to the petition w	oove who are not required to be personally ith the Court on, lly served are:
and they must file their response by the whichever is later.	above date or the	e 30th day after they are personally served,
the grounds of any such objections. All before a probate court clerk, and filing qualify to file as an indigent party. Co filing fees. If any objections are filed	Il objections sho g fees must be to ontact probate co d, a hearing will	the petition must be in writing, setting forth and be sworn to before a notary public or endered with your objections, unless you purt personnel for the required amount of all be (held on
	By:	of the Probate Court Herk of the Probate Court
	C	ierk of the Probate Court

IN THE PROBATE COURT OF _ STATE O	F GEORGIA COUNTY
IN RE: ESTATE OF DECEASED)) ESTATE NO
DECEASED)
CERTIFICAT	TE OF SERVICE
	e personal representative, if one has been appointed, of the y in which the decedent owned property must be listed here.]
I certify that I have this date mailed (proper postage affixed thereto for First-Class M	unless otherwise noted) in an envelope with the ail delivery copies of the
to the following parties at the addresses below:	
This day of	_, 20
	Clerk of the Probate Court
	Address

Telephone Number

IN THE PROBATE COURT OF COUNTY **STATE OF GEORGIA** IN RE: ESTATE OF ESTATE NO. _____ **DECEASED** ACKNOWLEDGMENT OF SERVICE AND CONSENT BY ADULT CHILDREN I hereby acknowledge service of the petition of for leave to sell or encumber the property set apart as year's support to the persons shown in the petition. I am over 18 years of age and suffer no mental disability. I hereby consent to the granting of the petition, and I agree the petitioner should be allowed to make the (encumbrance) (conveyance). Sworn to and subscribed before me this day of ______, 20_____ Signature Printed Name NOTARY/CLERK OF PROBATE COURT 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 OF	COUNTY
STATE O	F GEORGIA
IN RE: ESTATE OF DECEASED ,)) ESTATE NO
DECEASED)
OF	RDER
The petition of	, praying for
leave to (convey)(encumber) certain real proper	ty heretofore awarded from the estate of the above
	and considered, and it appearing to the Court that y law; it further appearing that a guardian ad litem s of the minor child(ren)
	who are still under the age of 18,
	proposed transaction; it also appearing that no that it is necessary and in the best interests of the
said real property be (conveyed)(encumbered) a	
IT IS ORDERED that said petition to GRANTED.	(convey)(encumber) be, and the same is hereby,
This day of	<u> </u> .
	Judge of the Probate Count
	Judge of the Probate Court