

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used if the dwelling is personal property (where the house sits on land not owned by the decedent such as on rented/leased land or on trust land) of the decedent that other heirs and/or creditors have an interest and the dwelling is occupied by the surviving spouse and/or children.

FORMS INVOLVED. The form is a **Petition for Homestead Allowance of Dwelling**. You will need to fill in the necessary information with help from the instructions below and then file the form with the court.

HOMESTEAD EXEMPTION

If after the estate is appraised it appears the dwelling is personal property (where the dwelling owned by the decedent sits on land not owned by the decedent such as on rented/leased land or on trust land) of the decedent that other heirs and/or creditors have an interest and the dwelling is occupied by the surviving spouse and/or children and the dwelling is necessary for the welfare and protection of the surviving spouse and/or children the Court can by order set aside the dwelling for the benefit of the surviving spouse and/or children as a homestead for a period of up to ten years and in case of special hardship or emergency the Court can extend the homestead from year to year after the initial ten year period as long as the any heirs or creditors of the decedent has an opportunity to appear before the Court and protest the extension. The Court will be required to hold a hearing on the extension to hear the evidence of any protest before ordering an extension of the homestead.

A petitioner can petition the Court for a homestead allowance using the **Petition for Homestead Allowance of Dwelling** form.

BURDEN OF PROOF. In a typical civil case you have the burden of proving your claim by a **Preponderance of the Evidence**. This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). You as the petitioner have the burden of proving by a preponderance of the evidence the following to the court:

1. That the dwelling is personal property (where the house the decedent owns sits on land not owned by the decedent such as on rented/leased land or on trust land) of the decedent.
2. That other heirs and/or creditors have an interest in the dwelling.
3. The dwelling is occupied by the surviving spouse and/or children. Attach any documentation showing the surviving spouse and/or children occupies the dwelling.
4. And the dwelling is necessary for the welfare and protection of the surviving spouse and/or children.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form. You can print this page in its entirety or you can scroll down to the form. There will be a blank screen between these instructions and the form and between the form so keep scrolling or just copy this page in its entirety.

ONCE COMPLETED, FILE THE PETITION WITH THE CLERK OF COURTS OF THE TRIBAL COURT.

Instructions for filling out the petition:

- (1) on this line insert the name of the decedent.
- (2) on this line insert your name.
- (3) on this line insert the day you sign the petition.
- (4) on this line insert the month you sign the petition.
- (5) on this line insert the year you sign the petition.
- (6) on this line insert your name by signing the petition.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD, SOUTH DAKOTA)

IN CIVIL COURT

<p>IN RE THE ESTATE OF:</p> <p>(1) _____ _____,</p> <p style="text-align: center;">Decedent.</p>	<p style="text-align: center;">DOCKET _____</p> <p style="text-align: center;">PETITION FOR HOMESTEAD ALLOWANCE</p>
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Comes now (2) _____, and petitions this Court as follows:

1. That the Administrator filed an Inventory and Appraisal of the estate with the Court and is part of the Court's record in this probate.
2. That the Administrator has inventoried a dwelling as personal property.
3. The dwelling is occupied by the surviving spouse and/or children and the dwelling is necessary for the welfare and protection of the surviving spouse and/or children as it is their home and they have no other housing alternatives.
4. That other heirs and/or creditors may have an interest in the dwelling.

WHEREFORE, Petitioner prays that this Court to set aside the dwelling for the benefit of the surviving spouse and/or children as a homestead for a period of up to ten years and in case of special hardship or emergency the Court can extend the homestead from year to year after the initial ten year period as long as the any heirs or creditors of the decedent has an opportunity to appear before the Court and protest the extension and for such other and further relief the Court finds just and equitable.

Dated this (3) _____ day of (4) _____, (5) _____.

(6) _____
Petitioner