

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used if the sale of personal property and other funds of the estate have been exhausted and there are still pending charges, claims and expenses against the estate or it is found by the Court that it would be in the best interest of the heirs, devisees and legatees that all or part of the real estate of the estate be sold for the purpose of distribution.

FORMS INVOLVED. The form is a **Petition for Authority to Sell Real Property of the Estate**. You will need to fill in the necessary information with help from the instructions below and then file the form with the court.

Sale of Real Estate (Land). If the sale of personal property and other funds of the estate have been exhausted and there are still pending charges, claims and expenses against the estate or it is found by the Court that it would be in the best interest of the heirs, devisees and legatees that all or part of the real estate of the estate be sold for the purpose of distribution can petition the Court for authority to sell real property. If the Court finds that the sale of real property is in the best interest of the estate it will order the personal property sold and how it to be sold in accordance with South Dakota law. However, any property specifically devised (allocated) in a will admitted into the probate is exempt from any order of sale and may not be sold without the consent of the person or persons it is devised to.

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 sale of personal property and other funds of the estate have been exhausted and there are still pending charges, claims and expenses against the estate or
2. it would be in the best interest of the heirs, devisees and legatees that all or part of the real estate of the estate be sold for the purpose of distribution can petition the Court for authority to sell real property.

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 how much the estate owes in expenses of the last illness and burial expenses of the decedent, expenses of administration, any claims of the estate or to distribute to heirs, legatees and devisees. Attach vouchers or bills reflected how much the estate owes.

(4) on this line insert how much cash the estate has available to pay the expenses of the last illness and burial expenses of the decedent, expenses of administration, any claims of the estate or to distribute to heirs, legatees and devisees

on this line insert the day you sign the petition.

(5) on this line insert the day you sign the petition.

(6) on this line insert the month you sign the petition.

(7) on this line insert the year you sign the petition.

(8) 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>Decedent.</p>	<p>DOCKET _____</p> <p>PETITION FOR AUTHORITY TO SELL REAL PROPERTY OF THE ESTATE</p>
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Comes now (2) _____, the Administrator herein and petitions this Court for authority to sell real property of the estate as follows:

1. That the Administrator filed an Inventory and Appraisal of the estate and is part of the Court's record in this probate.
2. That there are outstanding expenses or claims against the estate in the amount of \$(3) _____. Attached are vouchers of outstanding expenses or claims.
3. That the sale of personal property and other funds of the estate have been exhausted and there are still pending charges, claims and expenses against the estate or it is found by the Court that it would be in the best interest of the heirs, devisees and legatees that all or part of the real estate of the estate be sold for the purpose of distribution can petition the Court for authority to sell real property.
3. That the estate has \$(4) _____ cash on hand to pay the outstanding expenses or claims.
4. That it is necessary that the Administrator be granted authority to sell real property of the estate for the estate to pay for the outstanding expenses or claims.

WHEREFORE, Petitioner(s) prays that this Court order

- A. The Administrator has the authority to sell real property of the estate to pay outstanding expenses or claims against the estate.
- B. Set this matter for hearing.
- D. For such other and further relief the Court finds just and equitable.

Dated this (5) _____ day of (6) _____, (7) _____.

(8) _____
Administrator