

## REAL ESTATE SALES IN DECEDENT ESTATES: CHECKLIST FOR PETITIONER

### Inventory

- **File an Estate Inventory.** An Inventory must be filed, showing the Real Property you intend to convey. If the Inventory has been filed “For Presentment Only,” supply a copy with the Petition for Sale, so that the Court can verify the property on the Inventory.

### **Complete a Petition and attachments**

### Petition for Sale or Transfer

1. Complete and sign Petition Form [PC 681](#)
2. Supply a completed proposed Order [PC 682](#) or Macomb County Proposed Order Form [PC682A](#)
3. The Petition should state the terms and purpose of the sale
4. Attach a Purchase Agreement or other description of the conveyance
5. The Petition must include the Legal Description of the property
6. Attach evidence of the SEV (State Equalized Value) of the property
7. Evidence of Mortgage owed, if any (Mortgage statement, payoff letter, etc)
8. Include Petition fee of \$20
9. Include a Notice of Hearing [MCPC NOH](#)
10. Attach any [waivers and consents](#) you have from Interested Parties
11. If the conveyance is pursuant to the decedent’s will, attach a copy of that will provision

### **Items to consider that are not required, but helpful and may expedite your matter:**

- Does the sale price = 2 x SEV (or is it no less than approximately 10% less than 2 x SEV?)
- Do you have [waivers and consents](#) from all Interested Parties?
- Has the creditor’s period passed?
- Is the transfer to a surviving spouse, and spousal allowances, etc exceed the value of the property?

### Bond or Alternative

### **In MOST instances, Petitioner must post a Bond (or have an alternative to a Bond)**

- A surety bond for the amount of the sale price, less closing costs paid by the Estate (A list of bonding companies in the area can be found on the Court’s website. This is not an exclusive list.)
- **OR**, Petitioner may propose an alternative to Bond (example: funds to be held in an Attorney IOLTA, or funds held in escrow)
- **OR**, the property has more encumbrances than its value. (Where the property is underwater and Petitioner has all supporting documentation proving this, bond may be waived (see above). Cost of encumbrances must be shown - Bond cannot be waived or reduced based on Petitioner simply stating there is a mortgage or encumbrance. Written evidence is needed.
- **OR**, if all parties consent to sale and waiver of bond, and the creditor’s period is closed, and there are no claims against the estate.
- **OR**, Petitioner should explain if there is a reason that the conveyance should not require a bond?  
Example: Petitioner is the sole heir, and creditors period has closed; or Last Will & Testament gives the property to a particular person, there are no objections, and the creditors period has closed, or other similar situations)

### Petition to Waive or Reduce Bond

**Request Waiver, Reduction or Alternative to Bond, if applicable.** Petitioner can seek a waiver of bond by filing a Petition to Waive Bond ([PC 586](#) may be used). A hearing on this Petition may not be necessary if all Interested Parties give [waivers and consents](#) to the reduction of bond. If Petitioner wishes to request a waiver, reduction of bond, or proposes an alternative in lieu of bond, they may file a Petition to Waive or Reduce Bond ([PC 586](#) may be used). The Petition must:

- i. Be fully completed and signed by PR (and their attorney if represented)
- ii. Explain the circumstances / why they believe bond should be reduced or waived
- iii. Include [Waivers and Consents](#) of all interested parties
  - (1) as to the reduction of bond and
  - (2) as to the conveyance of the property

### **YOUR FACTS AND CIRCUMSTANCES MAY DIFFER FROM THE EXAMPLES LISTED ABOVE.**

#### **For reference:**

- SCAO Forms PC 681 / PC 682 / PC 682A (NOTE: Form PC 646 is for [Conservatorships](#))
- Court Rule: MCR 5.207