

**CHECKLIST FOR SALE OF REAL ESTATE**  
**IN AN ESTATE ADMINISTRATION**

Estate Proceeding

1. Check *Will*, if any, to see if there is a “Power of Sale”. If yes, proceed to sell the real estate, no Court involvement is required.
2. If no “Power of Sale” or no *Will*, then check to see if all heirs or next of kin consent to the sale of the real property.
  - a. Have them all sign a *Consent to Power to Sell Real Estate* (SPF 11.0).
  - b. Property must be sold for 80% of the appraised value approved by the Court that was completed by a certified real estate appraiser.
  - c. Make sure the *Inventory* is filed and approved prior to sale.
  - d. Proceed to sell real estate and report proceeds on *Account*.
3. If cannot get *Consent* signed by all next of kin or heirs, then a *Complaint to Sell Real Property* (Land Sale) must be commenced.
  - a. Venue – County in which real property is located or county where the Fiduciary was appointed.
  - b. Complaint must include:
    - i. Basis for Sale:
      1. To pay debts;
      2. To pay legatees; or
      3. Other circumstances.
    - ii. Necessary parties:
      1. Surviving spouse;
      2. All persons entitled to inherit;
      3. Mortgage and lienholders;
      4. All persons holding title; and
      5. All others who have an interest.
    - iii. If you are requesting Public or Private sale.
    - iv. Legal description of land to be sold.
    - v. Value of the property to be sold.

- vi. Request to use and pay realtor or auctioneer.
  - c. Service – Defendant(s) must be served with *Summons* and *Complaint*.
  - d. A *Preliminary Judicial Report* must be filed with the *Complaint*.
4. After *Answer* date has expired, Plaintiff either:
- a. *Motions* the Court to appraise the real estate and appoint an Appraiser;  
*or*
  - b. *Motions* the Court to accept appraisal from the Estate in the Civil action.
5. After the value of the real estate is established and the appraisal is filed with the Court, the Fiduciary requests that the Court find the sale necessary and issue an *Order of Sale*.
6. If *Complaint* requested a Public Sale:
- a. Property can only be sold for 2/3rds the appraised value.
  - b. Court must set a time, date, and location of sale.
  - c. Notice of sale must be advertised at least 3 successive weeks in a newspaper of general circulation in the county where the property is located.
  - d. Plaintiff must give notice of place, time, and date of sale to all Defendants at least 3 weeks prior to sale and must file certificate of service with the Court prior to sale.
7. If *Complaint* requested a Private Sale:
- a. Property must be sold for full appraised value.
  - b. If after one bona fide attempt to sell, property cannot be sold, the Plaintiff can request the Court fix the sale price or order a new appraisal.
8. After Court issues *Order of Sale*, the Plaintiff will return the *Order of Sale* executed along with a copy of the sale contract.
9. Plaintiff prepares a *Judgment Entry Confirming, Sale, Ordering Deed and Distribution* which lists the sale price and details what expenses are paid out of closing and details how much proceeds will be placed in the Estate account.