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FREE GUIDE

CALIFORNIA HOMEOWNERS

Do you need probate in California? Small estates, trusts and the house

Inherited homes and probate. Plain English, every fact sourced and dated.

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Questions? Talk with Fadi.
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Do you need probate in California? Small estates, trusts and the house

From Mr. Cash Offer, with Fadi Haweileh, CA DRE #02002344 · Facts checked November 23, 2026 · Online: mrcashoffers.com/guides/do-you-need-probate-california/

QUICK ANSWER

Not always. A house may pass without formal probate if it was in a living trust, held in joint tenancy, held as community property with right of survivorship, or covered by a transfer-on-death deed that was properly signed, witnessed and notarized and recorded within 60 days of notarizing. A surviving spouse has a court shortcut. So do some small estates and a main home in California worth $750,000 or less (after 40 days, for deaths on or after April 1, 2025). Which path fits depends on how the house was owned.

At a glance

How the house was owned	Who acts	Main paper
Living trust	The successor trustee	Trustee's notice to heirs and beneficiaries within 60 days
Joint tenancy	The surviving owner	Affidavit of death, recorded in the county
Community property with right of survivorship	The surviving spouse	Same steps as joint tenancy
Left to a spouse another way	The surviving spouse	Spousal property petition (DE-221)
Transfer-on-death deed	The named beneficiary	Affidavit of death, plus notice to heirs
In the person's own name	An heir or beneficiary under the will, if a small-estate path fits	DE-305 (all CA real estate $69,625 or less, after 6 months) or DE-310 (main CA home $750,000 or less, after 40 days); deaths on or after April 1, 2025

How was the house owned?

How was the house owned?

Survivorship here means joint tenancy, or community property with right of survivorship on the deed. A surviving spouse may also use a spousal property petition (DE-221). Ask a probate attorney which path fits.

Living trust

- The successor trustee acts
- Notice to heirs and beneficiaries within 60 days
- 120 days to contest (sometimes longer)

Joint tenancy or survivorship

- The surviving owner gets it
- Record an affidavit of death in the county
- Attach a certified death record

Transfer-on-death deed

- The named person receives it
- Signed, witnessed, notarized
- Recorded within 60 days of notarizing
- Heirs get notice and 120 days to challenge

Only in the person's name

- And not passing to a spouse
- Check the small-estate limits
- If none fits, you may need probate

The Courts' advice: check how it's owned ("the title of ownership or the deed") and whether there's any right of survivorship.

In a living trust

The Courts list property in a living trust among things a named beneficiary "should be able to transfer ... without going to probate court."

When a living trust becomes final because the person who made it died, the successor trustee must send a notice to each beneficiary and each heir. It's due within 60 days of the death (or of learning about a person who should get it). Someone who gets that notice has 120 days to contest the trust (sometimes longer): 120 days from the notice, or 60 days after getting a copy of the trust terms during that window, whichever is later.

In joint tenancy

"If the property is owned in joint tenancy, the surviving owner gets the property," the Courts say. To clear the title, anyone can record an affidavit of death, signed by someone who knows the facts, in the county where the house is. It needs a description of the property and a certified copy of the death record (Probate Code 210).

Counties such as Los Angeles and San Bernardino post an "Affidavit – Death of Joint Tenant" form. LA's recorder says its staff can't help fill it out and you may need an attorney.

Community property with right of survivorship

If the deed says "community property with right of survivorship" (an option for deeds made on or after July 1, 2001), the house passes to the surviving spouse "without administration," using the same steps as joint tenancy (other rules still apply, so ask a probate attorney).

Left to a surviving spouse another way

When property passes to a surviving spouse under a will, or under the law when there's no will, the Probate Code says "no administration is necessary." To get a court order confirming it, the spouse can file a Spousal or Domestic Partner Property Petition (form DE-221). The Courts call this "faster and less complicated than opening probate," but "there must be proof" that property is community property. Check the will and any prenuptial agreement too.

With a transfer-on-death deed

A transfer-on-death (TOD) deed passes the house to the person named in it when the owner dies. It only works if it was signed and dated, signed by two witnesses who were there at the same time, notarized, and recorded within 60 days after it was notarized.

The beneficiary can record the same affidavit of death (Probate Code 210) and files the county's change in ownership statement. The beneficiary must also send the heirs a notice with a copy of the deed and the death certificate. Heirs then have 120 days from that notice to challenge it. If two or

more people are named and survive the owner, they share it equally as tenants in common. The house still comes with any loan or lien on it. California's TOD deed law is set to end January 1, 2032, unless lawmakers extend it. Deeds signed before then stay valid.

What if the house was only in the person's name?

Small-estate limits

For deaths on or after April 1, 2025. Earlier deaths have lower limits. Next update April 1, 2028. Trust, joint tenancy and spouse property aren't counted; the mortgage isn't subtracted.

$750,000
Main California home, petition after 40 days (DE-310)

$69,625
All California real estate, affidavit after 6 months (DE-305)

$208,850
Money and belongings, affidavit after 40 days (not the house)

Then look at the small-estate paths. These limits are for deaths on or after April 1, 2025 (earlier deaths have lower ones). They change every three years. The next update is April 1, 2028.

- **Main-home petition (Probate Code 13151, form DE-310).** If the house was the person's main home in California and is worth $750,000 or less, an heir or beneficiary under the will can ask the court for an order after 40 days, without full probate. Whoever files must notify each heir and beneficiary within five business days.
- **Small real property affidavit (13200, form DE-305).** If all the person's California real estate is worth $69,625 or less, an heir or beneficiary under the will can file an affidavit with the court, but only after six months, and only if no probate case is open (or the estate's representative agrees in writing). It needs an inventory and appraisal by a probate referee, a certified death certificate and a notary. Funeral costs, last-illness costs and unsecured debts must be paid first. The form warns: "You may be personally liable for decedent's unsecured debts up to the fair market value of the real property and any income you receive from it."
- **Small estate affidavit (13100).** If everything that counts totals $208,850 or less and 40 days have passed, an heir or beneficiary under the will can collect money and personal property without probate. It's for things like bank accounts and belongings, not the house.

What counts toward the small-estate total?

Probate Code 13050 leaves several things out of the total:

- Joint tenancy property and property in a living trust
- Property that passed to a surviving spouse
- Accounts with a surviving co-owner or a payable-on-death beneficiary
- Registered cars, boats and mobile homes

- Money owed for military service, and unpaid salary up to $20,875 (deaths on or after April 1, 2025)
- Real estate outside California (the Courts' list)

You add up the full value: the Courts say you're "not allowed to subtract the debts" of the person who died, including the mortgage.

When is probate still needed?

The Courts: "If these options don't apply to your situation, you may need to go through the formal probate process." If the house was only in the person's name, isn't passing to a spouse, and doesn't fit the $69,625 affidavit or the $750,000 main-home petition, you may need formal probate. A probate attorney can tell you for sure. Any interested person can start probate at any time after the death.

For the steps, see Probate in California, step by step.

What to do this week

1. **Find the deed, the will and any trust.**
2. **Write down the date of death.** The limits and the 40-day and six-month waits run from it.
3. **Call your county court's probate self-help center** or a probate attorney before filing anything.
4. **Keep up with the change in ownership statement.** When there's no probate, it goes to the county within 150 days of the death. See the first 30 days guide.

Watch out for

- **Old limits.** Use the figures for the date of death.
- **Unsolicited offers.** The California Department of Real Estate (DRE) warned after the 2025 Los Angeles fires that unsolicited offers are often made "far below market value." Its red flags include promises of "all cash, a quick closing, a hassle-free transaction." Its advice: "take the time to have a professional help you determine the value of the property." That goes for our offer too. Have an attorney read any contract before you sign.

Questions people ask

Mom signed a TOD deed but never recorded it. Does it still work?

No. It isn't effective unless it was recorded within 60 days after it was notarized. Talk with a probate attorney about what applies instead.

My parent's house went to my sibling and me by TOD deed. Do we own it together?

If you both survived the parent, yes, as tenants in common in equal shares. See siblings who disagree.

Where Mr. Cash Offer fits

Fadi Haweileh is a California real estate salesperson (DRE #02002344) with eXp Realty of Greater Los Angeles, Inc. (DRE #02188471). If you sell to Mr. Cash Offer, the buyer is not your agent and can profit if the house is later resold. If you list with Fadi's team instead, he earns a commission. Either way he's paid. If selling turns out to be the right path, he'll show you a cash offer and what listing would likely net, side by side, and you decide. If it isn't, the steps above still apply. A cash offer is usually below full market value. Before you decide, get a second estimate from an agent who isn't buying.

Call Fadi, no pressure: **(909) 731-6884**



Questions about your situation?

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Sources

Checked on November 23, 2026.

- California Courts Self-Help, When formal probate may not be needed (https://selfhelp.courts.ca.gov/probate/simple-transfer)
- Form DE-305, Affidavit re Real Property of Small Value (Rev. January 1, 2026) (https://www.courts.ca.gov/documents/de305.pdf)
- Form DE-310, Petition to Determine Succession to Primary Residence (https://selfhelp.courts.ca.gov/jcc-form/DE-310)
- Form DE-221, Spousal or Domestic Partner Property Petition (https://selfhelp.courts.ca.gov/jcc-form/DE-221)
- Probate Code 210 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=210)
- Probate Code 5600 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=5600)
- Probate Code 5624 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=5624)
- Probate Code 5626 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=5626)
- Probate Code 5652 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=5652)
- Probate Code 5680 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=5680)
- Probate Code 5681 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=5681)
- Probate Code 8000 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=8000)
- Probate Code 13006 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13006)
- Probate Code 13050 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13050)

- Probate Code 13100 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13100)
- Probate Code 13151 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13151)
- Probate Code 13200 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13200)
- Probate Code 13500 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13500)
- Probate Code 13650 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=13650)
- Probate Code 16061.7 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=16061.7)
- Probate Code 16061.8 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=16061.8)
- Probate Code 16226 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=16226)
- Civil Code 682.1 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=682.1)
- Revenue and Taxation Code 480 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=RTC&sectionNum=480)
- Los Angeles County Registrar-Recorder/County Clerk, Procedure for Termination of Joint Tenancy upon Death of a Joint Tenant (https://www.lavote.gov/docs/rrcc/documents/Joint.pdf)
- San Bernardino County Assessor-Recorder-Clerk, Affidavit – Death of Joint Tenant (https://arc.sbcounty.gov/wp-content/uploads/sites/70/arcforms/aff_death_of_joint_tennant.pdf)
- DRE, "Protect Your Property: Tips to Spot Unsolicited Offers" (Feb. 11, 2025) (https://dre.ca.gov/newsroom/DRE_Updates/2025_02_11_ProtectYourProperty.html)

This guide explains general California rules. It isn't legal or tax advice. Talk with a probate or trust attorney, a tax professional, or your county assessor or recorder about your situation.