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FREE GUIDE

CALIFORNIA HOMEOWNERS

Probate in California, step by step

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

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Questions? Talk with Fadi.
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Probate in California, step by step

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QUICK ANSWER

Probate is the court process that gives someone legal authority over a person's property after they die. In California it has three stages: open a case, run the estate, and close it. Not every estate needs it, and some small ones can skip it.

At a glance

Step	Main form	Key timing
1. File the petition (county where the person lived)	DE-111	No general deadline; named executor: 30-day mark (see step 1)
2. Give notice	DE-121	Hearing 15 to 30 days after filing
3. Bond, if needed	(none)	Before Letters
4. Get your authority: court order, duties, Letters	DE-140, DE-147, DE-150	After the hearing
5. Inventory and appraisal	DE-160, DE-161	Within 4 months after Letters
6. Creditors	DE-157	Claims: later of 4 months or 60 days after notice
7. Close the estate	DE-295	Petition or status report within 1 year (18 months if a federal estate tax return is required)

Do I need probate at all?

Three shortcuts around full probate (deaths on or after April 1, 2025)

Small estate affidavit

- Money and personal property
- Up to $208,850
- After 40 days
- Not the house

Small real property affidavit

- California real estate
- Up to $69,625
- After six months
- Form DE-305

Main-home petition

- The person's main California home
- Worth $750,000 or less
- After 40 days
- Form DE-310

The Courts say: "Not all estates need to go through formal probate." For deaths on or after April 1, 2025:

Path	Limit	Wait	Form
Small estate affidavit (Probate Code 13100)	$208,850	40 days	(money and personal property, not the house)
Small real property affidavit (13200)	$69,625 in California real estate	Six months	DE-305
Main-home petition (13151)	Main California home worth $750,000 or less	40 days	DE-310

The limits are adjusted every three years; the next update is April 1, 2028. Earlier deaths have lower limits. If you file the main-home petition, you must notify each heir and beneficiary within five business days of filing.

Other ways around probate:

- Property in a living trust, or joint tenancy property, isn't counted toward the small-estate value.
- A surviving spouse may use a spousal property petition (DE-221), or ask the court to find that administration isn't necessary (Probate Code 13650).
- A transfer-on-death deed passes a house to a named person, if recorded within 60 days after it was notarized.

What are the steps of probate?

1. File the petition. File DE-111, Petition for Probate, in the county where the person lived. There's no general deadline: the law lets an interested person start probate "at any time after a decedent's death." But a person named as executor in the will who doesn't file within 30 days of learning of the

death and that they're named may be treated as having given up the right to serve, unless they show good cause for the delay.

2. Give notice. Notice goes out on DE-121 and is published in a newspaper three times, starting at least 15 days before the hearing. The hearing is set 15 to 30 days after filing, or 30 to 45 days if the filer asks.

3. Bond. A bond (insurance protecting the estate) isn't required if the will waives it, or if all beneficiaries waive it in writing. The court can still order one.

4. Get your authority. After the hearing the court signs an Order for Probate (DE-140). The representative signs Duties and Liabilities (DE-147). The clerk issues Letters (DE-150), the court paper that proves the representative's authority. If something must be protected right away, the court can appoint a temporary representative (a "special administrator") to do that.

5. Inventory and appraisal. File DE-160 (with DE-161) within four months after Letters. A probate referee, an appraiser appointed by the State Controller, values the real estate. The referee's fee is one-tenth of 1% of the appraised value, plus expenses. With the inventory, the representative certifies that the county change in ownership statement was filed.

6. Creditors. The representative notifies known creditors (DE-157). Claims are due by the later of four months after Letters or 60 days after the notice was mailed or delivered.

7. Close. Within one year after Letters (18 months if a federal estate tax return is required), the representative asks for final distribution or files a status report explaining why the estate can't close yet and how long it will take. The last form is DE-295, a short request asking the court to formally release ("discharge") the representative.

What is full or limited authority?

Under the Independent Administration of Estates Act, a law that lets the representative handle many tasks without a court hearing for each one, the representative asks for "full" or "limited" authority. Limited authority covers every power except a few, including selling, exchanging, optioning or borrowing against real estate. Either way, the court must still approve fees, accounts and the final distribution.

Can you sell a house during probate?

Yes. How depends on the authority.

With full authority, the representative can sell without court confirmation. They send a Notice of Proposed Action (DE-165) at least 15 days before the sale. For a house, it must state the price and the agent's commission. An heir or beneficiary can object in writing.

Without full authority, the court must confirm the sale before the house changes hands (report on DE-260). Notice of sale must usually be published first. In a private sale, the offer must be at least 90% of an appraisal done within the past year. The court looks at whether the representative tried to get the highest and best price reasonably attainable, and it sets the agent's commission.

The overbid rule. At the confirmation hearing, another buyer can win by offering at least 10% more on the first $10,000 of the original bid and 5% more on the rest.

Example (made-up numbers): The original bid is $500,000. The minimum overbid is $1,000 (10% of $10,000) plus $24,500 (5% of $490,000), or $25,500. A new offer must be at least $525,500.

The overbid rule, with made-up numbers

$500,000
The original bid

+ $25,500
10% of the first $10,000 ($1,000) plus 5% of the rest ($24,500)

$525,500
The lowest new offer that can win at the hearing

What does probate cost?

Representative's fee for ordinary work, at four estate values

Made-up estate values, figured from the tiers below. The attorney's fee follows the same tiers, so double these for both. Based on gross value; the mortgage doesn't lower it. The court approves the amounts; extra work can add more.



The law sets the representative's fee for ordinary work by tier, on the estate's gross appraised value. The mortgage doesn't reduce it.

Slice of the estate	Fee
First $100,000	4%
Next $100,000	3%
Next $800,000	2%
Next $9 million	1%

Slice of the estate	Fee
Next $15 million	0.5%
Above $25 million	Set by the court

The representative's attorney gets the same tiers as a separate fee. Both fees are paid out of the estate, in amounts the court allows.

Example (made-up numbers): A $700,000 estate is $4,000 + $3,000 + $10,000 = $17,000 for the representative, and the same $17,000 for the attorney. Ask the attorney whether anything extra could apply.

The court's filing fee for a first petition is $435 on the statewide schedule effective January 1, 2026. It's higher in Riverside, San Bernardino and San Francisco counties because of a local courthouse construction surcharge, so check with your court.

What to do this week

1. Find the will, any trust and the deed.
2. Check the small-estate limits against what the person owned.
3. Book a short visit with a probate attorney, or your county court's probate self-help center.
4. If a will names you as executor, write down the date you learned of the death and that you were named. The 30 days count from then.
5. Keep the house insured and the bills paid (a practical tip, not a legal rule). Before using your own money, ask the attorney whether the estate should pay.

Watch out for

- **Missing the executor's 30 days,** if you're the named executor.
- **Guessing at small-estate limits.** Use the Courts' current figures for the date of death.
- **Unsolicited offers.** The California Department of Real Estate (DRE) has warned that unsolicited offers to owners are often made "far below market value." Its red flags include promises of "all cash, a quick closing, a hassle-free transaction." It advises getting a professional valuation. Have the estate's attorney review any contract before anyone signs.

Questions people ask

How long do you have to file probate after death in California?

There's no general deadline to open probate. The 30 days affect only a named executor's right to serve, and a court can excuse the delay for good cause. See How long does probate take?

Do bank accounts go through probate?

Not always. For deaths on or after April 1, 2025, the small estate affidavit covers money and personal property up to $208,850, after 40 days. Accounts in a trust or joint tenancy aren't counted.

What is the cheapest way to do probate?

The small-estate paths above, if you qualify.

Why wait six months?

That's the wait for the small real property affidavit. It's different from the four-month creditor period.

How much does it cost to file?

$435 on the statewide schedule, more in three counties (above). Ask your court.

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 selling turns out to be the right path, Fadi can show the personal representative a cash offer and what listing would likely net, side by side. In a court-confirmed sale, any offer, including ours, can be overbid at the hearing, and the court sets any commission. A cash offer is usually below full market value. Before you decide, get a second estimate from an agent who isn't buying.

Before then, read our first 30 days guide.

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



Questions about your situation?

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Sources

Checked on November 23, 2026.

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- Court forms: https://selfhelp.courts.ca.gov/jcc-form/DE-111 (https://selfhelp.courts.ca.gov/jcc-form/DE-111) (and DE-121, DE-140, DE-147, DE-150, DE-157, DE-160, DE-165, DE-221, DE-260, DE-295, DE-305, DE-310)
- Judicial Council, Statewide Civil Fee Schedule (effective January 1, 2026), row 124 (https://courts.ca.gov/system/files/file/statewide-civil-fee-schedule-eff-01012026.pdf)
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- 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.