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FREE GUIDE

CALIFORNIA HOMEOWNERS

Can you sell a house in probate in California? How it works

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

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Questions? Talk with Fadi.
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Can you sell a house in probate in California? How it works

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

QUICK ANSWER

Yes. A house can be sold while probate is open. The court-appointed personal representative handles it. With full authority, they send heirs and beneficiaries a 15-day notice and can sell without a court hearing, unless someone objects in time. Otherwise the court must confirm the sale at a hearing, where another buyer can still outbid the first one.

At a glance

Question	The rule
Who signs	The personal representative with Letters (a trustee, if the house is in a living trust)
Full authority	Notice of Proposed Action (DE-165), at least 15 days before the sale
Limited authority, or an objection	Court confirmation (report on DE-260)
Lowest private-sale price in a confirmed sale	90% of an appraisal from the past year
Overbid at the hearing	10% more on the first $10,000, 5% more on the rest
Agent's commission	Set or approved by the court in a confirmed sale

Who can sign the sale?

In probate, the judge appoints a personal representative: the executor if a will names one, or the administrator if not. The court clerk then issues Letters (form DE-150), the paper that proves the representative's authority.

If the house is in a living trust, the trustee handles it under the trust, not the court, and has the power to sell "at public or private sale." When the trust becomes irrevocable at the death, the trustee must notify beneficiaries and heirs, generally within 60 days, and a person served has 120 days to contest the trust (or 60 days after getting a copy of the trust's terms, if that's later). Ask the trust's attorney how that affects a sale's timing.

Our step-by-step probate guide covers whether probate is needed.

Full authority or court confirmation: what changes?

Two ways a probate house gets sold

Selling to the representative or their attorney needs the court either way, apart from narrow cases.

Full authority

- Notice of Proposed Action (DE-165)
- Sent at least 15 days ahead
- Shows price and commission
- No court hearing
- No 90% floor

Limited authority, or an objection

- Court confirmation (DE-260)
- Notice of sale usually published first
- Private sale: at least 90% of a recent appraisal
- Court sets the commission
- Can be overbid at the hearing

Under the Independent Administration of Estates Act (IAEA), the court grants "full" or "limited" authority. Limited authority leaves out selling, exchanging, optioning or borrowing against real estate, so a sale needs court supervision.

With full authority, the representative may sell at the price and terms they choose. The confirmation rules don't apply: no published notice, no 90% floor, no hearing, no court approval of the commission. Selling to the representative or their own attorney still needs the court, apart from narrow cases.

How does the Notice of Proposed Action work?

Before selling under full authority, the representative sends a Notice of Proposed Action (form DE-165) at least 15 days before the date in the notice. It goes to each known heir and beneficiary whose share would be affected, and to anyone who asked the court for special notice. For a house, it must state the sale price and "the amount of, or method of calculating, any commission."

Anyone who receives it can object in writing, on the form or in a clear letter, delivered in time to the address on the notice. They can also get a court order stopping the sale without court supervision, granted "without cause being shown."

If an objection arrives in time and the representative still wants to sell, the sale goes through court confirmation instead. Someone who got the notice and didn't object generally can't ask the court to review the sale later.

How does a court confirmation sale work?

A court confirmation sale, step by step

Minimums set by law; the rest depends on the estate and the court. Some sales skip published notice, such as when the will authorizes the sale.

WITHIN 1 YEAR OF THE HEARING
Appraisal
Needed for the 90% rule

AT LEAST 10 DAYS
Notice of sale published
Three times, in a local paper

ON OR AFTER THE NOTICE DATE
Written offer accepted
Private sale: at least 90%

WITHIN 30 DAYS OF THE SALE
Report filed (DE-260)
If not, the buyer may file it

AT LEAST 15 DAYS BEFORE
Notice of the hearing

THE HEARING
Overbids, then the court decides
10% more on the first $10,000, 5% on the rest

AFTER THE ORDER
Deed signed, order recorded

1. **Appraisal.** The house must have an appraisal, with its valuation date, within one year before the hearing.
2. **Notice of sale.** It's published three times in a local newspaper over at least 10 days, finished before the date the notice says offers can be accepted. Some sales are exempt, such as when the will authorizes the sale.
3. **Accepting an offer.** Offers must be in writing. In a private sale the price must be at least 90% of the appraisal. It can't be made before the date in the notice.
4. **Report and petition.** The representative files the Report of Sale and Petition for Order Confirming Sale (DE-260). If they don't file within 30 days of the sale, the buyer may.
5. **Notice of hearing.** Notice goes out at least 15 days before the hearing.
6. **The hearing.** The court checks that the sale was "legally made and fairly conducted" and that the representative tried for the highest and best price reasonably attainable.
7. **Closing.** The representative signs a deed that refers to the court's order, and a certified copy of the order is recorded.

What is the overbid?

At the hearing, anyone can make a written offer. The court accepts it if it's at least 10% more on the first $10,000 of the original bid and 5% more on the rest, from a responsible person, and legal. The highest qualifying offer wins, though the court may order a new sale instead.

Example (made-up numbers): On a $500,000 original bid, the lowest winning overbid is $525,500.

So the first buyer isn't sure to get the house.

How is the agent's commission set?

The representative may sign a written listing with a licensed real estate broker, who may use a multiple listing service. In a court-supervised sale:

- The contract binds the estate "only for such amount as the court allows," and the court sets a reasonable commission, never more than the contract says.
- No commission is owed unless the sale is actually made, confirmed and closed.
- An exclusive listing is limited to 90 days and needs the court's permission first. Each extension needs permission again.
- The estate owes no commission to an agent who is, directly or indirectly, the buyer, or whose buyer's agent has any interest in the buyer.

Under full authority, the commission goes on the DE-165 instead. Ask the attorney which listing rules apply.

What happens to the mortgage?

For a home with fewer than five units, a lender can't call the loan due just because a relative inherited it, but the loan still must be paid. At the sale, the money pays related administration and sale costs, then the loan where the terms of sale require it. The house stays subject to the loan until it's actually paid. Keep paying while the sale is pending (a practical tip), and ask the attorney whether the estate should pay.

Can you sell a probate house as-is?

A regular "as is" sale still needs the Transfer Disclosure Statement (TDS). Probate sales differ: Civil Code 1102.2 exempts court-ordered sales, including probate sales, and sales by a fiduciary running a trust or a decedent's estate. The fiduciary exemption doesn't cover a trustee who is a person (not a company) serving a revocable trust and is a former owner or lived in the house within the past year. Other disclosure rules may still apply; ask the attorney or listing agent. Our as-is guide explains the rest.

How long does it take?

The law sets minimums, not a total: Letters first, then at least 15 days for a Notice of Proposed Action, or usually at least 10 days of published notice plus 15 days' notice of the hearing for a confirmed sale. The rest depends on the estate and the court. The Courts' estimate for probate as a whole is 9 to 18 months, sometimes longer. See how long probate takes.

What to do this week

1. Find out who the personal representative is and whether Letters have been issued.
2. Ask the estate's attorney whether the authority is full or limited.
3. Make a list of the heirs and beneficiaries who would get a DE-165, and talk with them early.
4. Keep the house insured, secured and paid up (practical tips).
5. Get a professional valuation before you look at any offer.

Watch out for

- **Unsolicited offers.** After the 2025 LA fires, the California Department of Real Estate warned 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." It advises a professional valuation. Have the estate's attorney review any contract before anyone signs.
- **Dealing with someone who can't show Letters.** Letters are the paper that proves who can act for the estate.
- **Treating the first offer as final** in a confirmed sale. It can be overbid.

Questions people ask

Can I sell a house during probate in California?

Yes, through the representative, with full authority or court confirmation.

Can it sell below the appraisal?

In a court-confirmed private sale, not below 90% of a recent appraisal. With full authority, there's no 90% floor, but heirs see the price on the DE-165.

Do all heirs have to agree?

With full authority, heirs get the 15-day notice and can object; an objection sends the sale to court. With court confirmation, the judge decides after hearing any objections.

Who pays the agent?

The estate, from the sale money, in the amount the court allows in a confirmed sale.

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.

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



Questions about your situation?

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Sources

Checked on November 23, 2026.

- Probate Code sections 1220, 10150, 10160, 10160.5, 10161, 10162, 10162.3, 10162.5, 10162.7, 10166, 10300 to 10304, 10306, 10308 to 10311, 10313, 10314, 10350, 10360 to 10362, 10403, 10450, 10501, 10503, 10510, 10511, 10581, 10585 to 10590, 16061.7, 16061.8, 16226: https://leginfo.legislature.ca.gov/faces/codes.xhtml (https://leginfo.legislature.ca.gov/faces/codes.xhtml) (search by code and section number)
- Government Code 6063a (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=6063a)
- Civil Code 1102.1 and 1102.2 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1102.2)
- Garn-St Germain Act, 12 U.S.C. 1701j-3(d) (https://www.law.cornell.edu/uscode/text/12/1701j-3)
- Courts Self-Help, Overview of formal probate (https://selfhelp.courts.ca.gov/probate/formal-probate)
- Courts Self-Help, Simple transfers (https://selfhelp.courts.ca.gov/probate/simple-transfer)
- Judicial Council forms DE-150, DE-165 and DE-260: https://selfhelp.courts.ca.gov/jcc-form/DE-260 (https://selfhelp.courts.ca.gov/jcc-form/DE-260) (and DE-150, DE-165)
- 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 attorney about your situation.