

# Probate Real Estate

A Practical Guide for  
Personal Representatives

The Probate Process Explained

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# The Probate Process Explained

## Understanding Probate & Your Role

Losing a loved one is already difficult. Being named as the executor or appointed as the administrator of an estate can add another layer of responsibility and stress—even if you knew ahead of time that you would take on the role.

In situations where someone passes away without a will (known as dying *intestate*), it can come as a surprise when the court selects you to handle the estate.

## How the Probate Process Works

Probate is overseen by the court, which ensures that the estate is properly handled. This includes identifying assets, paying debts, and distributing what remains to the rightful heirs.

Some states follow the **Uniform Probate Code (UPC)**, which standardizes procedures, while others have their own rules. Although the steps are generally similar, specific requirements can vary slightly.

## Selling Real Estate During Probate

In many estates, real property may need to be sold. This can happen when:

- The estate has outstanding debts
- Taxes exceed available cash
- No beneficiary wants to keep the property
- The will does not specify who receives it

In most cases, court approval is required before selling real estate—especially in formal probate proceedings.

Working with a real estate professional who understands probate can make a significant difference. They can help navigate court requirements, coordinate appraisals, and recommend improvements that may increase the property's value. It's also wise to consult with an accountant before making upgrades to avoid unintended tax consequences.

## Final Note

Probate laws and requirements vary by state, and every estate is different. It's always a smart move to work with qualified professionals—such as an attorney and an accountant—to ensure everything is handled correctly and efficiently.

# The Probate Process Explained

## Typical Probate Steps (Non-UPC States)

While procedures vary by state, the process generally includes:

- Locate the will and all estate documents (including trusts).
- Petition the court to be appointed executor or administrator.
- File probate in the county of residence with the will and death certificate.
- Notify heirs, beneficiaries, and creditors; publish notice for unknown creditors.
- Provide proof of all notifications to the court.
- Post a bond if required to protect the estate.
- Validate the will with witness statements if needed.
- Notify applicable government agencies (and the VA, if applicable).
- Obtain an EIN, open an estate bank account, and work with an accountant on required tax filings.
- Appraise assets (real estate, vehicles, valuables) and file a full inventory.
- Review, approve or deny creditor claims, and pay debts, taxes, and expenses.
- Request court approval to distribute remaining assets.
- Transfer assets to beneficiaries, obtain receipts, and file final documentation.
- Request discharge from your duties.

## Probate in UPC States

If your state follows the Uniform Probate Code, you may have simplified options:

### Informal Probate (simplest route):

- File to be appointed as personal representative.
- Receive official authorization (often called Letters Testamentary or Letters of Administration).
- Notify heirs, beneficiaries, and creditors.
- Publish notice for unknown creditors.
- Inventory assets and distribute them.
- File a final accounting and close the estate.

### Formal Probate (more complex situations):

- Used when there are disputes, no will, unclear heirs, or minor beneficiaries.
- Court involvement is greater, and approval is often required before major actions like selling property or distributing assets.

### Supervised Probate (rare cases):

- The court closely oversees the process, typically when beneficiaries need additional protection.

In all cases, a final accounting must be submitted before the estate can be officially closed.