Selling a Home in a California Probate or Trust: What to Expect

A plain-English guide from Faith Hicks, REALTOR® · Certified Probate & Trust Specialist

> **Please read:** This guide is general, educational information. It is **not legal or tax advice**, and Faith Hicks is a real estate licensee, not an attorney. Every estate and trust is different, and laws change. **Consult a California probate or trust attorney** before you act. Code sections are linked to the official California Legislative Information site; court information is linked to the official California Courts site.

1. First question: who holds title, and what authority do they have?

How a home is sold after someone passes away depends mostly on **how the home was owned**:

- **In a probate estate.** A court appoints a *personal representative* (an executor or an administrator) to manage the estate. The California Courts Self-Help Guide explains that the representative takes inventory, notifies creditors, pays debts, reports to the court, and later distributes what's left. It notes that a formal probate case "typically takes 9 to 18 months and can sometimes take even longer." Source: California Courts Self-Help Guide: Overview of formal probate
- **In a living trust.** A *trustee* (often a successor trustee) manages trust property under the trust document. California law gives a trustee "the power to acquire or dispose of property, for cash or on credit, at public or private sale, or by exchange." Source: Probate Code §16226

Your attorney will confirm which applies, and what the court order (Letters) or trust document allows.

2. Probate sales: the two main paths

PATH A: SELLING UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT (IAEA), FULL AUTHORITY

- A personal representative who has **full authority** "has the power to sell or exchange real property of the estate." Probate Code §10511
- Before taking that action without court supervision, the representative gives a **Notice of Proposed Action** (Probate Code §10580). The Judicial Council form is DE-165 (official form PDF).
- The notice must be delivered to each person entitled to it **at least 15 days before** the date the action will be taken. Probate Code §10586
- If someone **objects in writing** (or gets a restraining order), a representative who still wants to go ahead must do it under the court-supervision rules. Probate Code §10589
- When selling under IAEA authority, the court-confirmation requirements generally **do not apply**: publication of notice of sale, court approval of agents' and brokers' commissions, the 90%-of-appraisal minimum, and the court's review of the sale. Probate Code §10503
- The DE-165 form itself warns that a sale without court supervision "will NOT be presented to the court for confirmation at a hearing at which higher bids for the property may be presented."

PATH B: COURT-CONFIRMED SALE

A court-confirmed sale is required when the representative has only **limited** IAEA authority (limited authority requires court supervision for a "sale of real property"), or no IAEA authority at all. Probate Code §10501(b)

What generally happens:

1. **Notice of sale is published** before the sale, unless an exception applies. One exception is when the will directs or authorizes the sale. Probate Code §10300 · §10303
2. **An offer is accepted, subject to court confirmation.** The sale must be "reported to and be confirmed by the court before title to the property passes to the purchaser." Probate Code §10308
3. **Appraisal and minimum price.** For a private sale, the property must have been appraised within one year before the hearing, and the offer must be **at least 90% of the appraised value**. Probate Code §10309
4. **Overbids at the hearing.** Another buyer can make a higher written offer at the confirmation hearing. To qualify, it must be at least **10% more on the first $10,000** of the original bid **plus 5% more on the amount above $10,000**. The court may also decline it and order a new sale. Probate Code §10311
   Arithmetic illustration only (not a prediction): on a $1,000,000 original bid, the minimum qualifying overbid would be $1,000 + $49,500 = $50,500 more, or $1,050,500.

What this means for buyers and timing: in a court-confirmed sale, your accepted buyer can be outbid at the hearing. Your attorney and agent should plan marketing, buyer expectations, and timing around the hearing date.

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3. Trust sales

- The trustee's power to sell comes from the trust document and California trust law (Probate Code §16226).
- The court-confirmation steps described above (Probate Code §§10300–10316) sit in the part of the Probate Code that governs **decedents' estates**. Whether any court involvement is needed for your trust sale is a question for your attorney.
- **Notice to beneficiaries and heirs.** When a revocable trust becomes irrevocable because a settlor died, the trustee must serve a "notification by trustee" on beneficiaries and heirs, generally within 60 days. The notice includes a warning about the time limit to contest the trust: 120 days from service, or 60 days from delivery of the trust terms, whichever is later. Many families plan the sale timeline with this in mind. Ask your attorney. Probate Code §16061.7

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4. Getting the home ready (Renovate & Sell, when it fits)

Some estate and trust homes sell best as-is. Others benefit from light, return-focused updates. Spending estate or trust money is a decision for the **personal representative or trustee, together with their attorney**.

Ways I can help:

- Walk-through, condition notes, photos for the file
- Coordinating access, clean-out, and vendors
- A pricing opinion "as-is" vs. "after light prep," so you can compare
- Marketing, offers, and paperwork timed to the IAEA notice period or the court hearing

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5. A simple checklist to bring to your first call

- ☐ Copy of Letters (probate) or the trust document and the trustee certification (trust)
- ☐ Attorney's name and contact
- ☐ Who has keys and access; is the home occupied?
- ☐ Known loans, liens, HOA, utilities, insurance status
- ☐ Any deadlines the attorney has flagged (notice dates, hearing dates)

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About Faith

I'm Faith Hicks, an Irvine-based REALTOR® and the agent who helps clients renovate and sell. Licensed in California since 2018 and a Certified Probate & Trust Specialist (C.A.R. course), I help Orange County homeowners, relocating families, executors, and trustees sell with a clear plan.

Ready to talk it through? Call or text 951-414-0149 or email faith@hicksrealtor.com.

General information only; not legal or tax advice. Faith Hicks is not an attorney. Consult a California probate/trust attorney about your situation. Sources were checked on Oct 29, 2026 and laws can change.