

**A CALIFORNIA  
PROBATE GUIDE  
WHAT EXECUTORS  
AND FAMILIES  
NEED TO KNOW**



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# YOU DO NOT HAVE TO NAVIGATE PROBATE ALONE

## About Guillermo Reyes:

I am a broker associate with EXP Realty, dedicated to the world of real estate for over two decades. Assisting families in achieving their dream of homeownership has been a fulfilling journey for me. Raised in the vibrant city of San Francisco, I've had the privilege of calling the Bay Area my home throughout my life. It's a place close to my heart, and I cherish the diverse culture and stunning landscapes this region offers.



# WHAT IS PROBATE?

- Definition: The legal procedure through which a court confirms the validity of a last will and testament and authorizes an executor to manage the estate.
- Purpose: To provide an orderly, legally binding transfer of ownership of property (real estate, financial accounts) from the deceased to beneficiaries, while ensuring creditors are paid.
- If no Will exists: The process is known as "intestate" administration, where the court appoints an administrator to divide assets based on state laws.





# 5 THINGS TO DO IMMEDIATELY AFTER A DEATH


## 1. Secure the Property

- Make sure the home is locked, utilities are functioning properly, and valuables are protected. If the property will be vacant, take extra precautions.

## 2. Forward the Mail

- Forward mail to the executor or responsible party. This helps identify accounts, bills, and important financial information.


## 3. Notify the Insurance Company

- Inform the homeowner's insurance provider as soon as possible. A vacant property may require a policy adjustment to maintain coverage.
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## 4. Do NOT Distribute Assets

- Do not give away personal belongings, vehicles, or funds before confirming legal authority. Distributing assets too early can create legal issues.

## 5. Do NOT List the Property Without Confirming Authority

- Only the legally appointed executor or administrator has authority to sell. Listing the home before proper court approval can delay or complicate the probate process.
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# WHEN PROBATE IS REQUIRED

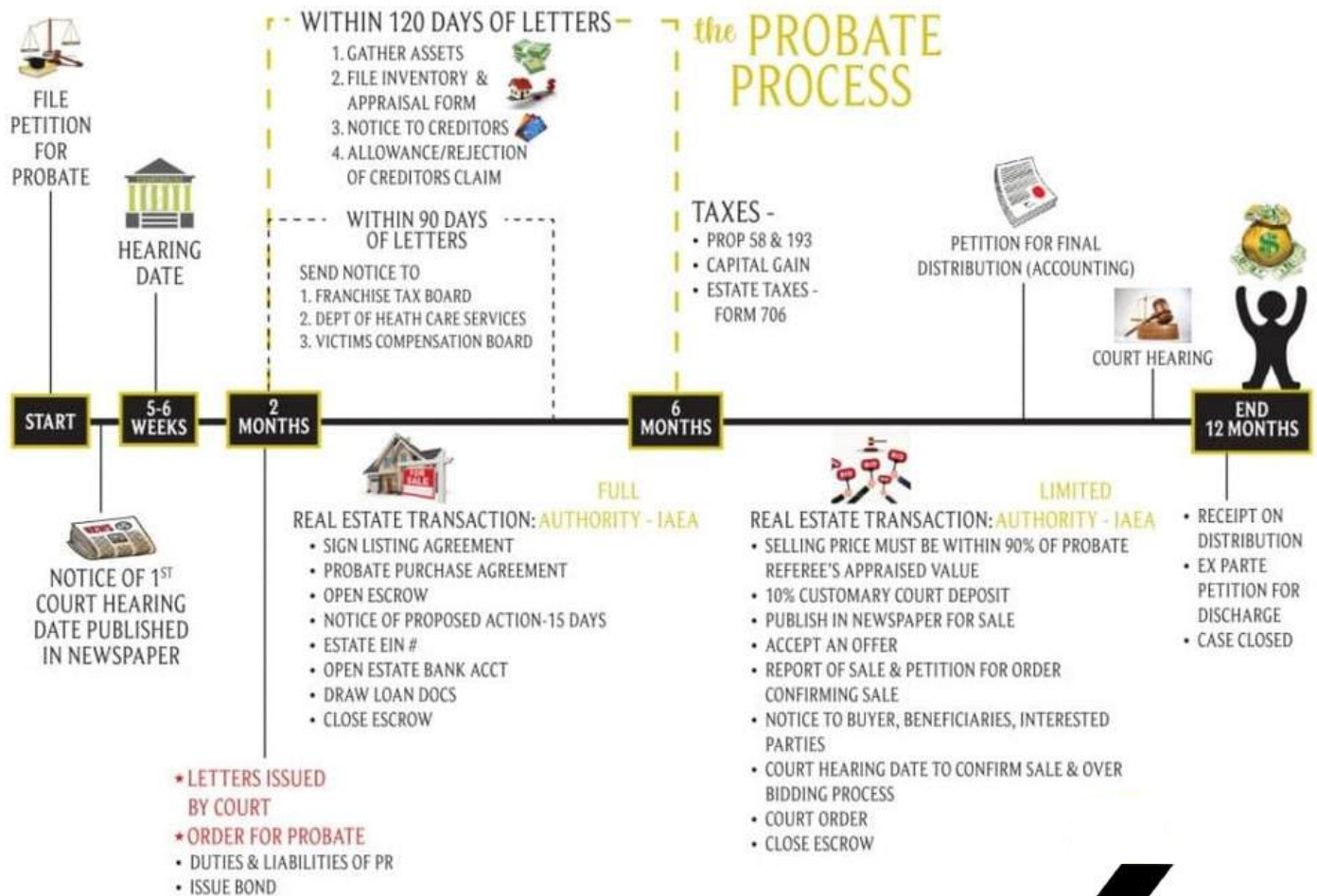
In California, probate is usually required if the person who passed away owned property in their name alone or had significant assets that were not shared or placed in a trust. Probate is a court-supervised process where the estate is settled, debts are paid, and remaining assets are legally transferred to the heirs.

**In California, probate may not be required if the estate is small or if the assets were already arranged to transfer automatically, such as through a living trust, joint ownership, or named beneficiaries.**

**Probate is required when probate assets exceed the current California small estate threshold.**



# Certified Probate & Trust Specialist



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# PROBATE TIMELINE

## Month 1–2:

### Petition Filed

- The attorney files the petition with the court to officially open the probate case.

## Month 3–4:

### Letters Issued

- The court appoints the executor or administrator and gives them legal authority to act on behalf of the estate.

## Month 4–8:

### Inventory and Appraisal

- All assets are identified and formally valued. Real estate is appraised, and financial accounts are documented.

## Month 6–12:

### Sale of Property (If Applicable)

- If the home needs to be sold, it is prepared, listed, and sold during this stage.

## Month 9–18:

### Final Distribution

- After debts, taxes, and expenses are resolved, the remaining assets are distributed to the heirs. The case is then closed.





# WILL VS NO WILL

## **With a Will:**

The court validates the will, and the named executor manages the estate according to the deceased's wishes.

## **Without a Will (Intestate):**

The court appoints an administrator (often a family member) to manage the estate, and assets are distributed according to state, not personal, preferences.

Both roles serve as the personal representative of the estate.

# LIMITED AUTHORITY

## Who Has Limited Authority?

- Special Administrators: Appointed for specific, temporary tasks (eg, securing assets) before a general personal representative is appointed.
- Executors/Administrators with Restricted Letters : Sometimes called limited authority, they must obtain court orders (confirmation) for actions like selling property.
- "Late and Limited" Representatives : Used for older estates, their authority is often confined to identifying assets and paying administration expenses, without power of sale.

## Limitations of Authority:

- **No Independent Sale**: Cannot sell real estate or sometimes personal property without court confirmation.
- **Restricted Transactions**: Cannot enter into complex contracts, invest funds, or settle large debts without approval.
- **Time-Consuming**: Adds delays and costs to the probate process due to required court hearings.

## Other Limited Roles:

**Agents Under Power of Attorney (POA):** Their authority ends immediately upon the principal's death, meaning they have zero authority once the probate process begins.

# TAXES + DISTRIBUTION

## Key Aspects of Step-Up in Basis & Probate

- **Definition:** If an asset was purchased for \$100,000 and is worth \$1,000,000 at death, the heir's new basis \$1,000,000. Selling it for \$1,000,000 results in zero capital gains tax.
- **Community Property Advantage:** In California, if assets are held as community property, both halves receive a step-up based upon the death of the first spouse.
- **Joint Tenancy:** If held as joint tenants, generally only the deceased spouse's half receives the step-up.
- **Timing:** The step-up applies to assets passing through probate, revocable trusts, and community property.
- **Exceptions:** Assets in irrevocable trusts often do not receive a step-up.

## Tax Implications

- **Capital Gains**

In most cases, heirs only owe taxes on any increase in value that occurs after the date of death. The property's value is generally adjusted to its market value at that time. This is often called a "step-up in basis."

- **Income Taxes**

The executor is responsible for filing any final income tax returns and handling tax matters for the estate during probate.

- **Estate Taxes**

California does not have a state estate tax. Federal estate tax may apply to larger estates depending on current exemption limits.


## Important Actions

- **Appraisal:** Obtain a professional appraisal to document the FMV at the date of death, which is critical for establishing the new cost basis. **Timing of Sale:** Selling shortly after death minimizes further capital gains.



# COMMON MISTAKES

## **Key pitfalls and how to avoid them include:**

- **Failing to Locate the Will:** Not finding the most recent, original signed will can lead to delays.
  - **Poor Communication:** Failing to keep beneficiaries informed can cause suspicion, tension, and potential lawsuits.
  - **Ignoring Deadlines:** Missing court deadlines or tax filing dates can result in penalties.
  - **Improper Asset Management:** This includes failing to secure property, selling assets below value, or using estate vehicles.
  - **Premature Distribution:** Distributing assets before all creditors are paid can make the executor personally liable.
  - **Not Seeking Legal Counsel:** Attempting to handle complex probate matters without professional help often leads to rejected filings.
  - **Improper Tax Handling:** Forgetting to consider income tax, inheritance tax, or estate taxes.
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# HOW I HELP



**Guillermo Reyes**  
Real Estate Agent  
(650) 759-1466

Before making any decisions about selling, repairs, or distributions — call me for a no-obligation probate property consultation.

- Free Probate Property Evaluation
  - Vendor Coordination
- Court-Compliant Sale Guidance
  - Overbid Representation

"I recently completed the first step of my Probate and Trust Certification to further strengthen the guidance I provide to executors and families. My commitment is to continue deepening my knowledge so that every client receives informed, structured, and compliant support throughout the probate process."

## LET'S CONNECT

Phone: (650) 759-1466

Website: [www.ReyesTeam.com](http://www.ReyesTeam.com)

Email: [Sold@ReyesTeam.com](mailto:Sold@ReyesTeam.com)



**"Prior to my real estate career, I had the honor of serving in the army for three years. Those years hold a special place in my heart and are some of the most cherished memories of my life. The army provided me with invaluable experiences and taught me the values of discipline, teamwork, and commitment. Now, as a broker associate, I combine my passion for real estate with the lessons I learned during my military service. My goal is to guide and support families in making one of the most significant decisions of their lives finding the perfect home. With a deep understanding of the Bay Area's real estate market and a dedication to exceptional service, I strive to help my clients achieve their dreams. I look forward to the opportunity to work with you and assist you on your real estate journey. Please don't hesitate to reach out if you have any questions or need professional advice."**

## **SELLING REAL ESTATE DURING PROBATE**

### **Independent Administration vs. Court Confirmation**

If the executor has Independent Administration authority, the property can usually be sold without full court approval. If not, the sale must be confirmed by a judge before it becomes final.

### **Overbidding Process**

In court-confirmed sales, other buyers may be allowed to submit higher bids at the court hearing. Buyers must qualify and appear prepared, which can impact timing and outcome.

### **Why Pricing Strategy Matters**

Pricing must reflect market value while protecting the estate. The right strategy attracts strong offers and supports the executor's legal responsibility.

### **Why Preparation Matters**

Even in as-is sales, presentation affects value. Clean, safe, and well-prepared homes typically generate stronger interest and better results.

### **Why Executor Protection Matters**

Executors have a legal duty to act in the best interest of the estate and heirs. Proper marketing, documentation, and professional guidance help reduce risk and prevent disputes.

This guide is informational only and not legal or tax advice.

# YOU DO NOT HAVE TO NAVIGATE PROBATE ALONE

Probate can feel overwhelming. Legal steps. Family decisions. Financial responsibility.

You deserve experienced guidance.

Guillermo Reyes brings years of experience handling probate and trust-related real estate transactions, with a clear understanding of court procedures, executor responsibilities, and estate protection.

He works closely with executors, heirs, and probate attorneys to ensure properties are handled professionally, strategically, and with care.

From property preparation to final closing, every step is managed with discretion and respect.



**Zillow Reviews**



**Google Reviews**

**Confidential Probate Consultation Available**