

Probate and the House

What happens to a home with a loan on it while an estate goes through probate in California

FIRST, THE THING MOST FAMILIES GET WRONG

Opening a probate case does not stop a foreclosure.

The lender can record a Notice of Default and set a sale date whether or not a case is open. Probate doesn't pause the loan; it decides **who has the authority** to deal with the loan and the house. Until someone has that authority, the clock runs and nobody can act.

WHAT PROBATE ACTUALLY DOES

The court appoints one person (the administrator or executor) and issues **Letters**: the document that lets that person deal with the lender as the estate, open an estate account, sign a sale, and distribute what's left. Before Letters you can gather information and line things up. After Letters you can act.

THE TIMELINE, ROUGHLY

File the petition	Forms DE-111 and attachments filed with the county. A hearing date is set, usually 6 to 10 weeks out.
Hearing	Short if the paperwork is right. The judge appoints the administrator; Letters issue a few days later.
Creditor period	4 months from Letters for creditors to file claims. The estate can still sell the house during this time.
Inventory & Appraisal	Due within 4 months of Letters. The court's probate referee values the house; this number matters for the sale and for taxes.
Selling the house	With full authority (IAEA), the administrator sells with a 15-day Notice of Proposed Action to the heirs; no court hearing. With limited authority , the sale needs court confirmation and can be overbid in court.
Closing the estate	Final accounting and distribution, often 9 to 18 months from filing. A house can be sold long before this.

IF THERE'S A LOAN ON THE HOUSE

- **Call the servicer now.** Tell them the borrower passed. Ask for their **successor-in-interest** process. Federal rules require them to work with a confirmed heir, and a relative who inherits the home can keep the existing loan without qualifying for a new one.
- **Keep the payments going if at all possible**, even before Letters. Every missed month adds to what the estate owes and brings a Notice of Default closer.
- **If a Notice of Default is already recorded**, the options are the same as for any homeowner: reinstate, modify as the successor, sell before the sale date, a sale where the loan stays in place, or let it go. Letting it go hands the equity to the auction.

The First 30 Days

What to do before the hearing, whether or not you ever sell

- **Get 5 to 10 certified death certificates.** The lender, the insurer, the county, the bank, and the DMV will each want one.
- **Find the mortgage statement, the deed, and the insurance policy.** A photo of each is enough to start.
- **Check the insurance.** Most homeowner policies stop covering a house that sits empty for 30 to 60 days. If nobody is living there, ask the insurer for a vacant-home endorsement or policy. A fire or a break-in on a lapsed policy is the loss that can't be undone.
- **Keep paying taxes and utilities.** The court doesn't cover these. Unpaid property taxes add penalties monthly; a shut-off water line in summer is how pipes and lawns die.
- **Secure the house.** Change the locks, stop the mail, keep the yard up. An empty house gets noticed.
- **Open every letter from the lender.** Save them. If one says "Notice of Default," the dates in it decide everything else.
- **Get the heirs on the same page early.** Most delays come from family disagreement, not the court. One conversation about keep-sell-or-buy-out, with real numbers, saves months.

NUMBERS TO KNOW BEFORE ANYONE DECIDES ANYTHING

What it's worth	A realistic as-is value, not the Zestimate.
What's owed	Loan balance plus any arrears, plus any second loan, HOA, or tax lien.
What it costs to hold	Payment, taxes, insurance, utilities, upkeep; per month, times the months probate will take.
What's left	Value minus what's owed minus holding costs minus the cost of selling. This is the estate's real equity, and it shrinks every month the house sits.

COMMON MISTAKES

- Assuming probate paused the foreclosure.
- Letting the insurance lapse on an empty house.
- Waiting for Letters to start the conversation with the lender.
- Missing the Inventory & Appraisal deadline, which stalls everything after it.
- Going pro per (no attorney) and getting stuck on a form for three months. Doable, but ask for help early.

Where are you in this?

Call or text (661) 271-6299

We'll tell you what the next filing is, what the house is realistically worth, and what your options are.

No obligation, and no pressure to sell.