

WHAT IS PROBATE?

Probate is the Court Supervised process of collecting the decedent's assets, paying those that are owed money to and distributing what is left to their heirs. Usually, if the decedent died without a valid trust, lived in California when they died, and owned real property (house or vacant land), or other assets totaling \$150,000 or more, then a probate must be completed to transfer the property to their heirs or beneficiaries. Letters of Administration is the form that the Judge signs confirming that he has given that person legal authority to represent the estate. Sometimes the bank will require this form before releasing funds.

However, Letters of Administration are not needed when the decedent died owning less than \$150,000 in assets. If this is the case, the heirs may complete a small estate affidavit.

HOW DOES THE PROBATE PROCESS WORK?

The person named in the will as executor or, if there is no will, the person appointed by a judge files paper in the local probate court. The executor proves the validity of the will and presents the court with lists of property, debts and who are the heirs.

Probate of Will and for Letters of Administration with Will Annexed- if the decedent had a Will to be offered for probate but the person seeking to be appointed the administrator is not named in the Will.

Letters of Administration- if the decedent died without a Will. Letters of Special Administration- if you are seeking to preserve the decedent's assets before a permanent administrator can be appointed or you are asking for a particular power (example- to represent the estate in civil litigation, to collect certain assets or manage a particular part of the decedent's estate). With general powers- general powers allow a special administrator to sell real property or reject creditor's claims Authorization to Administer Under the Independent Administration of Estates Act

Limited authority- means more Court supervision. With limited authority a representative must have a court order to sell property or borrow money from the estate. The bond amount shall be the value of cash on hand in the estate.

Full authority - means acting with less court supervision. You may sell real property or borrow money but must notify the heirs first. Heirs may object to your proposed action. In order to act with full authority you need to be bonded for the full value of the estate.

Publication- publication is required when filing for Letters of Administration.

HOW LONG DOES IT TAKE TO COMPLETE PROBATE?

Probate can take anywhere from 6 months to several years to complete.

The Probate Timeline

<i>Step</i>	<i>Duration</i>
Prepare and File Petition for Probate	1-2 months
Court hearing on the Petition for Probate	2-3 months
<i>The following are issued:</i> Letters of Administration, Orders for Probate, Duties and Liabilities, Issue Bond (<i>if ordered</i>), & **Letters Testamentary**	2-4 months (<i>if not contested</i>)
Notice to Creditors	2-4 months
Notice to Department of Health Services Inventory and Appraisement	4-8 months
Pay State and Federal Taxes (<i>if necessary</i>)	6-12 months
Allow or Reject Creditor Claims	
Possible Preliminary Distributions	
Notice to Department of Health Services (<i>if deceased received medical</i>)	
Notice to Franchise Tax Board (<i>if heir is out of state</i>)	
Claim of Exemption (<i>if assets transfer to at minor</i>)	6-15 months
Receive Final Tax Letter from State and Federal (<i>if appropriate</i>)	6-18 months
File Petition for Final Distribution and Accounting	8-16 months
Hearing on Petition for final Distribution and Accounting	
Order Approving Final Distribution and Accounting	
Distribution of Assets to Heirs	9-17 months
Final Discharge Order (<i>indicates close of probate case</i>)	9-18 months
Final Distribution of Funds	9-18 months