



PROBATE TRANSACTIONS

Occasionally, we come across a transaction where the estate of a deceased Seller is subject to probate proceedings. In that case, there are many specialized procedures that will be required in the transaction. The following information is not intended to cover all aspects of probate requirements, however we find the following more common information to be helpful:

First, let's cover when probate is not required.

When title to the property is held as:

- » **Joint tenancy** – the property automatically passes to the survivor
- » **Community property with right of survivorship** – the property automatically passes to the survivor
- » **Trusts or family partnerships** – the property is not owned individually and the successor takes control of the property upon death.

When taking a listing where one or more of the property owners is deceased, you should immediately check the manner in which title is held. If none of the above applies, you will need to ask about probate proceedings. It's important to ask the attorney of the estate whether you will be handed:

- » **Letters of Administration** (used to grant authority to the Executor of a will)
- » **Letters Testamentary** (used for the court to grant authority to an administrator of the estate)
- » **Court Order Confirming Sale** (used when an heir objects to the sale of the property)

Each of these methods affects the title insurance requirements, and how the Grant Deed will be worded and signed.

Important! If the ownership to the property does not fall into one of the exempt categories above, you should check with your escrow officer and/or title representative, as your transaction may need to be contingent upon receiving appropriate probate documents prior to the close of escrow.

Both your escrow holder and your title company will require a certified copy of the Order Confirming Sale, the Letters of Administration or the Letters Testamentary. These documents confirm who can sign on behalf of the estate and what authority persons have in the transaction. In addition, we will require a certified copy of the decedent's Death Certificate.

If you have questions when listing a property that may be subject to probate proceedings, call on your escrow officer for review of the manner in which title is held. *We're here to help!*

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