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Navigating Probate Real Estate

A Practical Guide for Arizona Families

Selling a home after the loss of a loved one is one of life's most emotionally and legally complex experiences. This guide is designed to walk you through the probate process with clarity and confidence.

Understanding Probate in Arizona

When a property owner passes away, their real estate typically cannot be transferred or sold without going through a legal process called probate. For families already navigating grief, the probate process can feel overwhelming. This guide is here to change that.

Whether you are an executor, heir, or trustee, understanding how Arizona's probate system works will help you make informed decisions and avoid costly mistakes.

What Is Probate?

Probate is the court-supervised legal process that validates a deceased person's will (if one exists), identifies and inventories their assets, pays outstanding debts and taxes, and ultimately distributes the remaining estate to the rightful heirs or beneficiaries. In Arizona, probate is governed by the Arizona Uniform Probate Code (A.R.S. Title 14) and administered through the Superior Court in the county where the deceased person lived.

Does Every Estate Require Probate?

Not always. Arizona offers several ways to transfer property without formal probate:

- Joint tenancy with right of survivorship — the property passes automatically to the surviving owner
- Community property with right of survivorship — available to married couples in Arizona
- Beneficiary deeds (transfer-on-death deeds) — allow real property to transfer directly upon death
- Revocable living trusts — property held in trust generally avoids probate entirely
- Small estate affidavit — available for estates valued under $100,000 (personal property) or $75,000 (real property)

Important Note
If the deceased held the property in their name alone, without any survivorship designation or trust, then formal probate will almost certainly be required before the property can be sold.

Types of Probate in Arizona

Informal Probate

The most common route for straightforward estates. No court hearing is required; a Personal Representative (executor) is appointed by the court registrar. This process is generally faster and less expensive than formal probate. Most real property sales during probate in Arizona go through the informal process.

Formal Probate

Involves actual court hearings and is required when:

- There is no will (intestate estate)
- The will is being contested
- There are disputes among heirs or creditors
- The estate is particularly complex or high-value

Supervised Probate

The court oversees every major action taken by the Personal Representative, including the sale of real property. Less common, but may be required by the court or requested by heirs.

Small Estate Procedures

Type	Threshold / Details
Personal Property	Affidavit available if estate value is under $100,000
Real Property	Affidavit available if equity in real property is under $75,000
Waiting Period	Affidavit may be used 30 days after the date of death
No Court Filing	No formal probate petition required for qualifying small estates

The Probate Process: Step by Step

While every estate is unique, the following outlines the typical sequence of events in an Arizona probate real estate sale. Timelines can vary significantly depending on complexity and court schedules.

1

File the Petition

The executor or an interested party files a petition with the Superior Court in the county of the decedent's residence. A death certificate and original will (if one exists) must be submitted.

2

Appointment of Personal Representative

The court appoints a Personal Representative (PR) — formerly called an executor. The PR receives Letters Testamentary (if there is a will) or Letters of Administration (if there is no will), which authorize them to act on behalf of the estate.

3

Notice to Creditors

A notice to creditors is published in a local newspaper for at least three consecutive weeks. Creditors have four months from the first publication (or 60 days from notice, whichever is later) to submit claims against the estate.

4

Inventory and Appraisal

The PR creates a full inventory of estate assets, including real property. Real estate is typically valued by a certified appraiser or by the realtor's comparative market analysis.

5

Listing and Marketing the Property

The PR, working with a qualified real estate agent, lists the property for sale. The property may be sold at or near fair market value. In informal probate, no court approval of the sale price is typically required.

6

Accepting an Offer

The PR reviews and accepts offers on behalf of the estate. Unlike a standard home sale, buyers should be aware they are purchasing from an estate, which may affect warranties and as-is conditions.

7

Close of Escrow

The transaction closes similarly to a traditional sale. Sale proceeds flow into the estate account and are used to pay creditors, taxes, and expenses before distribution to heirs.

8

Distribution and Closing the Estate

Once debts are settled and the court approves final accounting (in formal probate) or the PR files a closing statement (in informal probate), the remaining assets are distributed to heirs and the estate is formally closed.

How Long Does This Take?

An informal Arizona probate can take 6–12 months from filing to close. If a property sale can proceed before the estate closes, the real estate transaction itself may close in a normal 30–60 day window. Complex or contested estates can take significantly longer.

The Personal Representative's Role in a Property Sale

The Personal Representative (PR) is the individual legally authorized to sell estate property. Understanding this role is essential for anyone involved in a probate real estate transaction.

Who Can Serve as Personal Representative?

Arizona law gives priority in the following order:

- The person named in the will as executor
- The surviving spouse of the decedent
- Other heirs of the decedent
- Any creditor (after 45 days from death)
- Any other qualified person

Powers of the Personal Representative

Once appointed, the PR has broad powers to manage and sell estate assets. Key powers include:

- Listing and selling real property without court approval (in informal probate)
- Signing listing agreements, purchase contracts, and escrow documents on behalf of the estate
- Hiring a real estate agent, appraiser, and other professionals
- Accepting offers and negotiating terms
- Paying estate expenses, including mortgage, property taxes, and HOA dues from estate funds

The PR's Fiduciary Duty

The PR is a fiduciary — legally required to act in the best interests of the estate and its beneficiaries, not their own. This means:

- Selling the property at or near fair market value
- Documenting all decisions and transactions
- Distributing proceeds properly in accordance with the will or Arizona intestacy law
- Treating all heirs equitably

Realtor's Note

When working with a Personal Representative, it is important that both the agent and the PR understand that the PR's authority is defined by the Letters Testamentary or Letters of Administration issued by the court. Always obtain a copy before proceeding with the listing.

Selling a Probate Property: What to Expect

Selling a home through probate is similar to a traditional sale in many ways, but there are unique considerations that both the PR and potential buyers should understand.

Pricing the Property

A fair market value determination is critical in probate. The PR has a fiduciary duty not to undersell. Options for establishing value include:

- A formal appraisal by a licensed Arizona-certified appraiser
- A comparative market analysis (CMA) provided by a licensed real estate agent
- Review of recent comparable sales in the area

Condition of the Property

Probate homes are frequently sold "as-is." This does not relieve the seller of disclosure obligations for known material defects, but it does signal that the estate will not make repairs. Common considerations:

- The PR may have limited knowledge of the property's history or condition
- Buyers should be encouraged to conduct thorough inspections
- Properties that have been vacant may have deferred maintenance or utility issues
- Estate contents (furniture, personal property) may still be present at time of listing

Arizona Disclosure Requirements

Even in probate, Arizona law requires sellers to disclose known material defects. The PR should complete the Seller's Property Disclosure Statement (SPDS) to the best of their knowledge, noting any areas where they lack personal knowledge of the property's condition.

The Purchase Contract

Probate sales in Arizona typically use the standard AAR Residential Resale Real Estate Purchase Contract. Key points to address:

Item	Details
Seller Name	The estate must be identified correctly: "Estate of [Full Name], Deceased"
Authority	Attach Letters Testamentary or Letters of Administration to escrow
As-Is Addendum	Commonly used in probate sales; buyers waive repair requests
Closing Timeline	Allow extra time for estate-related title work and documentation
Tax ID	The estate's EIN (not the decedent's SSN) is used for tax purposes

Title and Escrow Considerations

Title companies are experienced with probate transactions. Be prepared to provide:

- Certified copy of the death certificate
- Letters Testamentary or Letters of Administration
- Court case number and county of probate
- Federal Estate Tax ID (EIN) for the estate
- Final settlement statement or PR authorization for disbursement

Financial and Tax Considerations

Real estate held in a probate estate may have significant tax implications. While this guide offers an overview, always consult with a CPA or estate tax attorney for guidance specific to your situation.

The Step-Up in Basis

One of the most important financial benefits of inheriting real estate is the stepped-up cost basis. When a property is inherited through a deceased estate, the beneficiary's cost basis is stepped up to the fair market value of the property on the date of death — not the original purchase price. This can significantly reduce or eliminate capital gains tax if the property is sold shortly after inheriting it.

Example

A parent purchased a home in 1985 for $80,000. At the time of their death, the home is worth $450,000. An heir who inherits and sells the home for $455,000 would only owe capital gains on $5,000 — not the $375,000 gain accumulated during the parent's lifetime.

Estate Taxes

Arizona does not have a state estate tax. However, the federal estate tax may apply to very large estates. As of 2026, the federal estate tax exemption is over $15 million per individual. Most family estates will not be subject to federal estate tax.

Ongoing Property Expenses During Probate

The estate is responsible for all carrying costs on the property until it is sold, including:

- Mortgage payments (if applicable)
- Property taxes (Arizona property taxes are paid in arrears; prorations apply at closing)
- Homeowner's insurance
- HOA dues and assessments
- Utilities and basic maintenance

These costs are typically paid from estate funds and are deductible as estate administration expenses.

Capital Gains Tax

If the property is sold at a gain above the stepped-up basis, the estate (or heirs, if distributed before sale) may owe capital gains tax. Short-term vs. long-term rates depend on how long the property was held after the date of death.

The Professional Team You'll Need

A successful probate property sale requires coordination among several professionals. Assembling the right team early can save time, money, and significant stress.

Professional	Role in the Probate Sale
Probate Attorney	Opens the estate, files paperwork, navigates court requirements, advises the PR on fiduciary duties, and ensures the sale proceeds legally.
Probate Realtor	Prices the property, markets it appropriately, guides the PR through the sale process, coordinates disclosures and contracts, and communicates with all parties.
CPA / Tax Advisor	Advises on stepped-up basis, capital gains exposure, estate tax filings (Form 706 if applicable), and income tax returns for the estate (Form 1041).
Certified Appraiser	Provides a formal opinion of value for estate inventory, equitable distribution among heirs, or IRS purposes.
Title / Escrow Officer	Manages the closing, ensures title is clear of liens, coordinates payoff of any mortgages, and disburses proceeds to the estate.
Estate Sale Company	Handles the liquidation of personal property inside the home prior to or concurrent with the real estate sale.
Bank Trust Dept. / Fiduciary	If the PR is a professional fiduciary or bank trust department, they manage estate finances and coordinate closely with the realtor and attorney.

Common Questions from Families

Can we sell the home before probate is complete?

In many cases, yes. The property can be listed and go under contract while probate is pending. However, the closing cannot occur until the Personal Representative has been formally appointed and has the legal authority to sign closing documents. An experienced probate realtor and title company can help sequence the process efficiently.

What if heirs disagree about selling the property?

This is one of the most common and difficult situations in probate real estate. If heirs cannot reach agreement, the PR may need to petition the court for authority to sell the property over objections, or the dispute may need to be resolved through mediation or litigation. A probate attorney's guidance is essential in these situations.

What if the property has a mortgage?

The mortgage does not disappear at death. The estate is responsible for continuing payments until the property is sold. At closing, the mortgage is paid off from the sale proceeds, just as in a traditional sale. If the estate cannot cover the payments during probate, the PR should consult the attorney and lender immediately.

Can we accept a cash offer or a below-market offer?

The PR has a fiduciary duty to obtain fair market value. Accepting a below-market offer could expose the PR to personal liability, especially if any heirs object. Cash offers are welcome, but the price should be defensible. When in doubt, obtain a formal appraisal.

Do we need court approval to accept an offer?

In informal probate, generally no. The PR has independent authority to accept offers. In supervised or formal probate, the court may require approval before the sale can close. Your probate attorney will advise based on the specific circumstances of the estate.

What happens to the sale proceeds?

Net proceeds from the sale are deposited into an estate bank account. From there, the PR uses those funds to pay valid creditor claims, estate expenses, and taxes — then distributes the remaining balance to heirs according to the will or Arizona intestacy laws.

Glossary of Probate Terms

Navigating probate introduces a host of legal terms. Here are the most common ones you'll encounter:

Administrator	A person appointed by the court to manage an estate when there is no will or named executor.
Beneficiary	A person or entity named to receive assets from an estate or trust.
Beneficiary Deed	A deed that transfers real property at death without probate, recorded before death.
Decedent	The person who has died.
Executor	The person named in a will to carry out its instructions. Now called "Personal Representative" in Arizona.
Fiduciary	A person with a legal obligation to act in another party's best interest.
Heirs	Persons entitled to inherit under a will or, if no will, under state law.
Intestate	Dying without a valid will. Arizona's intestacy statutes determine how assets are distributed.
Letters Testamentary	Court document authorizing the executor to act on behalf of the estate.
Letters of Administration	Same as Letters Testamentary, but issued when there is no will.
Personal Representative	Arizona's term for the executor or administrator of an estate.
Probate	The legal process of validating a will, appointing an executor, and distributing estate assets under court supervision.
Stepped-Up Basis	Tax rule that resets the cost basis of inherited property to its fair market value at the date of death.
Testate	Dying with a valid will in place.
Trust	A legal arrangement in which assets are held by one party (trustee) for the benefit of another (beneficiary).

How Levendi Realty Can Help

You don't have to navigate this alone. At Levendi Realty, we specialize in guiding Arizona families through estate and probate real estate with the care, professionalism, and discretion this work demands.

When you work with Levendi Realty on a probate property, you receive:

- Expert guidance from a realtor experienced in Arizona probate real estate
- Clear communication with attorneys, title companies, fiduciaries, and heirs
- Sensitive handling of family dynamics and estate circumstances
- Connections to a trusted network of probate attorneys, appraisers, and estate sale professionals
- Proven marketing strategies that bring qualified buyers to estate properties
- Honest advice — with your family's legacy and best interests always at heart

Contact Us

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Senior Transitions · Estate Sales
Probate · High Net-Worth Family Moves

This process is rarely just about real estate. It is about family, legacy, and honoring a life well-lived. We approach every probate engagement with the quiet professionalism and heartfelt care it deserves.

This guide is provided for informational purposes only and does not constitute legal, tax, or financial advice. Please consult a licensed Arizona probate attorney for guidance specific to your estate.