



Probate FAQs for Homeowners in Texas

1. What is probate?

Probate is the legal process used after someone dies to:

- Validate the will
 - Identify heirs
 - Pay debts and taxes
 - Transfer ownership of assets, including a home
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2. Does every home go through probate?

No.

A home may avoid probate if it is:

- In a living trust
- Owned jointly with survivorship rights
- Covered by a Transfer on Death Deed (TODD)
- Passed directly to a spouse in certain situations

If none of these apply, probate is often required.

3. Can a house be sold during probate?

Yes.

In Texas, many probate homes can be sold during probate if the executor has authority from the court.

The title company usually requires:

- Letters Testamentary or Letters of Administration
 - Probate documents
 - Proof the executor can sell
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4. Who owns the house during probate?

Technically, the estate owns/control the property until probate is completed.

The executor or administrator manages the property on behalf of heirs and creditors.

“Not legal advice. Not an attorney. Verify all information with a licensed Texas attorney or qualified professional.”



5. Can heirs live in the home during probate?

Usually yes, but it depends on:

- The will
- Family agreements
- Estate debts
- Court orders

Disputes can arise if one heir lives there while others want to sell.

6. What happens to the mortgage after death?

The mortgage does not disappear.

The estate or heirs must continue payments if they want to keep the home.

Possible outcomes:

- Continue payments
- Refinance
- Sell the property
- Risk foreclosure if unpaid

Federal law often allows heirs to assume inherited mortgages in certain situations.

7. Can a home be transferred without probate in Texas?

Sometimes.

Texas allows tools such as:

- Transfer on Death Deeds
- Lady Bird Deeds
- Living trusts
- Joint ownership with survivorship rights

These can avoid full probate.



8. How long does probate take in Texas?

Simple probate:

- Often 3–6 months

Complex or contested probate:

- 1 year or longer

Factors affecting timing:

- Family disputes
- Missing heirs
- Debt problems
- Title issues
- Court delays

9. Can property taxes or HOA dues still accrue during probate?

Yes.

The estate remains responsible for:

- Property taxes
- HOA dues
- Insurance
- Utilities
- Maintenance

Ignoring these can create liens or foreclosure risks.

10. What if there is no will?

Texas intestate succession laws decide who inherits.

The outcome depends on:

- Marriage status
- Children
- Separate vs community property
- Prior marriages

This can become complicated quickly.



11. Can multiple heirs force the sale of the house?

Often yes.

If heirs disagree, one or more heirs may request:

- Partition action
- Court-ordered sale
- Buyout negotiations

These disputes are common in inherited properties.

12. Can a probate house be sold “as-is”?

Yes.

Most probate homes are sold as-is because:

- Executors may not know the home's condition
- The estate may not want repair costs
- The property may need updates

Buyers should always inspect carefully.

13. What is a Muniment of Title in Texas?

A simplified probate option available when:

- There's a valid will
- Few or no debts exist

It allows property transfer without full estate administration.

This is one reason Texas probate can sometimes be easier than other states.

14. Do all heirs have to agree to sell the house?

Not always.

If the executor has proper authority under the will and Texas law, they may be able to sell without unanimous heir approval.

However, disagreements can still delay transactions.



15. Can creditors take the house during probate?

Possibly.

If the estate owes debts:

- Creditors may file claims
- Liens may need repayment
- Mortgage lenders can foreclose if unpaid

Texas homestead protections may help surviving spouses in some cases.

16. Should homeowners create an estate plan to avoid probate?

Usually yes.

Common Texas probate-avoidance tools include:

- Living trusts
- Transfer on Death Deeds
- Beneficiary designations
- Lady Bird Deeds
- Proper joint ownership setup

These can save heirs time, money, and stress.

17. What documents are important during probate?

Common documents include:

- Death certificate
- Original will
- Letters Testamentary
- Property deed
- Mortgage statements
- Insurance policies
- Tax records



18. What should heirs do immediately after inheriting a home?

Important early steps:

1. Secure the property
2. Maintain insurance
3. Continue mortgage payments
4. Check for liens or taxes
5. Consult a probate attorney
6. Contact a title company if selling

19. What are the biggest mistakes families make with probate property?

Common mistakes:

- Letting insurance lapse
- Ignoring maintenance
- Failing to communicate among heirs
- Selling before title issues are resolved
- Missing tax payments
- Waiting too long to start probate

20. Do I need a probate attorney in Texas?

For very small/simple estates, maybe not.

But for real estate, most families benefit from hiring a Texas probate attorney because:

- Title companies often require proper filings
- Mistakes can delay sales
- Heirship laws can be complicated
- Court procedures must be followed carefully

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