

Texas Probate Real Estate

A Practical Guide for Families Navigating Estate Property in Texas

A Practical Guide for Texas Families Navigating Estate Property



Protect the Property

Know the immediate steps to secure and preserve estate real estate.



Understand the Process

Navigate Texas probate with clarity — from authority to closing.



Maximize the Value

Avoid the most common mistakes that cost families thousands.

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First, Take a Breath

If you're reading this, you're likely navigating the loss of a loved one while also dealing with unfamiliar legal and real estate responsibilities. That combination is genuinely hard — and most people have never done it before.

Probate situations feel overwhelming primarily because of **uncertainty**. With the right information in hand, most families navigate this process successfully. This guide is designed to give you that clarity — in plain English, with practical steps you can act on today.

"Most difficulties in probate arise from uncertainty, not complexity. Clarity changes everything."

How to Use This Guide

This guide is organized sequentially — from immediate property protection steps to understanding the sale process. You don't have to read it all at once. If you're in the early days after a loss, start with Sections 3 and 4. If the estate has been open for a while and you're thinking about selling, jump to Sections 6 and 7.

Throughout this guide you'll also find places to reach out for a free, no-obligation conversation with a Certified Probate Real Estate Specialist who knows Texas law and the local market.

The Legal Gateway to Transferring Property

Probate is the court-supervised process of validating a will and authorizing the distribution of assets — including real estate. In Texas, this process typically takes 6–18 months, though simpler estates can move faster.

Until probate is complete (or the executor is granted authority), the property legally belongs to the estate — not to any individual heir. This distinction has significant practical implications.

What Changes When a Property Enters Probate

Insurance coverage may shift. Standard homeowner's policies often don't cover vacant or estate-owned properties without notification.

Decision-making authority changes. Only the executor has legal authority to make decisions about the property — including listing it for sale.

Liens and debts must be resolved. Creditors have the right to make claims. Real property cannot be transferred until debts are settled.

Buyers need clean title. Title companies require proper documentation — including certified Letters Testamentary — before insuring a probate sale.

✓ Texas Is Executor-Friendly

Most Texas wills allow 'independent administration,' which means the executor can act without court approval at every step. This makes Texas probate significantly faster and less expensive than in many other states.

The Clock Starts the Day of Passing

Many families assume the property can wait — that there's time to sort out the estate before worrying about the house. In reality, several risks begin accumulating the moment a property becomes vacant or is in transition. Ignoring them can cost the estate tens of thousands of dollars.

■ ■ Insurance & Vacancy Voids

Most standard homeowner's policies have a clause that limits or eliminates coverage after a property has been vacant for 30 to 60 days. If a pipe bursts, a vandal breaks in, or a fire starts in an unoccupied home, the insurance company may deny the claim entirely. This is one of the most expensive surprises families encounter.

■ ■ Undetected Property Damage

Without someone checking the property regularly, small issues compound. A slow roof leak can become \$15,000 in structural damage. An HVAC failure in a Texas summer can warp wood floors and create mold conditions within days. A proactive walk-through every 1-2 weeks can catch these early.

■ ■ Liability Exposure

As executor, you have a duty to manage estate assets responsibly. If a trespasser is injured on an unsecured property, or if a neighbor suffers damage from a neglected issue (like a falling tree), the estate may bear liability. Securing and maintaining the property protects everyone.

■ ■ Property Tax & Mortgage Obligations

Property taxes continue to accrue regardless of probate status. If there's a mortgage, payments must continue or the estate risks foreclosure. Verify these obligations within the first week and set up auto-pay or arrange for payments from estate funds.

■ ■ Utilities & Maintenance Deterioration

Turning utilities off seems like a money-saver, but it can create serious problems. In Texas heat, an un-air-conditioned home can develop mold within days. Leaving water on without anyone checking can cause flooding from undetected leaks. Keep utilities on and have someone check the property regularly.

■ ■ Title Complications

Existing liens, HOA violations, code citations, or unresolved title issues that go unaddressed during probate can complicate — or kill — a future sale. Identifying these early gives you the most options for resolution.

Do These Immediately After the Property Becomes Estate Property

Use this checklist in the first days and weeks. Share it with any co-executors or family members who are helping manage the estate.

SECURITY

- Change all exterior door locks and rekey if needed
- Ensure all windows are locked and latched
- Install or activate a security/monitoring system
- Remove any spare keys from hidden exterior locations
- Post 'No Trespassing' signs if property will be vacant

DOCUMENTATION

- Photograph or video every room — exterior and interior
- Document any existing damage in writing with dates
- Inventory high-value items (jewelry, art, equipment)
- Locate the deed, mortgage documents, and prior tax records
- Obtain Letters Testamentary or Letters of Administration from the court

INSURANCE

- Locate and review the existing homeowner's insurance policy
- Notify the insurer of the owner's death and property status
- Ask specifically about the vacancy clause and timeline
- Request a 'vacant home endorsement' or separate vacancy policy
- Confirm coverage amounts and update if needed

ONGOING MAINTENANCE

- Keep electricity and water utilities on
- Maintain HVAC — especially critical in Texas summers
- Arrange for lawn care and exterior maintenance to continue

- Check on the property at minimum every 1-2 weeks
- Arrange mail forwarding or hold to avoid signal of vacancy
- Pay any delinquent HOA dues to avoid violations or fines

FINANCIAL & LEGAL

- Confirm whether a mortgage exists and continue payments
- Set up payment for property taxes (check for exemptions)
- Open an estate bank account to track income and expenses
- Keep receipts for all property-related expenses (reimbursable)
- Consult a probate attorney early — especially if assets are complex

The Vacancy Clause: What Most Families Don't Know

Standard homeowner's insurance policies are written for **occupied residences**. When a property becomes vacant — meaning no one is living there on a regular basis — the risk profile changes significantly in the eyes of insurers. Vandalism, theft, water damage, and fire all become more likely when a home sits empty.

How Vacancy Clauses Work

Most policies define vacancy as a home that has been unoccupied for **30 to 60 consecutive days**. Once that threshold is crossed, the policy may:

- Exclude coverage for vandalism and theft entirely
- Deny claims for water damage from pipes or appliances
- Void the policy altogether in some circumstances
- Require a separate vacancy endorsement to maintain coverage

■ **IMPORTANT: Notify the Insurer Immediately**

Do not wait to inform the insurance company. The moment the property transitions to estate ownership and is no longer occupied, call the insurer and document the conversation in writing. Ask directly: 'Does our current policy cover a vacant property, and if so, for how long?' Get the answer in writing.

✓ **Vacant Home Policies**

Standalone vacant property insurance is available from most major insurers and typically runs \$500–\$2,500 per year depending on the home's value and location. For a property worth \$400,000, that's a very small cost compared to a denied claim on a \$50,000 water damage loss.

What to Ask Your Insurer

- When does our vacancy clause take effect?
- What specific coverages are excluded during vacancy?
- Can we add a vacant home endorsement to the existing policy?
- If not, what is the cost of a standalone vacant property policy?
- Are there any coverage requirements (e.g. regular inspections) to maintain the policy?
- Does the policy cover vandalism during a probate period specifically?

The Short Answer: Often Yes — But Timing and Authority Matter

One of the most common questions families ask is whether they have to wait until probate is completely finished before selling the property. In Texas, the answer depends on the **type of administration** and whether the court has granted the executor the authority to act.

General Timeline Overview

Phase	Typical Timing	Can You Sell?
Estate opened; executor named	Days 1–30	Not yet — awaiting letters of administration
Letters Testamentary / Administration issued	30–90 days	Yes, if independent administration — can list and accept offers
Dependent administration	Varies	Yes — with court approval at each step
Estate fully settled	6–18 months typical	Yes — proceeds distributed to heirs

Important: Even once a sale is authorized, the title company must be able to insure the title. Probate sales require specific documentation — including certified copies of Letters Testamentary or Administration, court orders where applicable, and an executor's deed.

Understanding Your Administration Type Changes Everything

Texas is one of the most executor-friendly states in the country, largely because of its **independent administration** option. Understanding which type applies to your estate will determine how quickly and freely you can act on the property.

Independent Administration	Dependent Administration
Granted when the will authorizes it, or all heirs agree	Required when there is no will, or heirs cannot agree
Executor can sell property without court approval for each step	Court must approve each major decision, including listing and sale
Much faster and lower-cost process	Can add months and thousands in court costs
Most Texas wills are written to allow this	Common in intestate estates or contested situations
Still requires proper documentation at closing	Requires court confirmation of sale — buyers must be aware

Other Texas-Specific Paths

In some cases, full probate may not be required. Texas law offers alternatives that can be faster and less expensive:

- **Muniment of Title** — Available when there is a valid will, no debts (other than a mortgage), and the sole asset is real property.
- **Small Estate Affidavit** — For very small estates (under \$75,000 in non-exempt property), heirs can use this affidavit to transfer property without full probate.
- **Affidavit of Heirship** — Used when there is no will and the heirs are well-established. Works for real property but carries some title risk.

✓ Talk to a Probate Attorney Early

Determining which path is right for your estate requires a conversation with a Texas probate attorney. Many offer free or low-cost consultations. The cost of getting good legal advice upfront is almost always less than the cost of making a procedural mistake that delays the sale.

Not Every Estate Includes a House

Many families go through the probate process for an estate that consists primarily of a vehicle, household furnishings, personal belongings, and perhaps a bank account — with a total value somewhere between \$25,000 and \$75,000. This is more common than most people realize.

Understanding your options when the estate is modest can save considerable time, legal expense, and family stress.

Texas Small Estate Affidavit

If the total value of the estate's non-exempt assets is **\$75,000 or less**, Texas law allows heirs to use a **Small Estate Affidavit** instead of full probate. Key requirements:

- The decedent must have died intestate (without a valid will)
- At least 30 days must have passed since the date of death
- No probate proceeding may already be pending or granted
- The affidavit must be approved by a probate court judge
- All distributees (heirs) must sign

Once approved, the Small Estate Affidavit can be used to transfer assets like bank accounts and vehicles directly to heirs — without appointing an executor or going through a full administration.

Transferring a Vehicle

A vehicle is often the most significant asset in a small estate. Texas has a streamlined process for transferring a motor vehicle to an heir:

- **With a will:** The executor can transfer title using Letters Testamentary and a completed Form VTR-262.
- **Without a will:** Heirs can use Form VTR-262 if the vehicle's value is under \$10,000 and no other probate is required. Filed directly with the Texas DMV.
- **Through probate:** If the estate requires full administration, the vehicle transfers as part of the executor's authority to distribute estate assets.

Personal Property: What Probate Actually Covers

Not all personal property goes through probate. Assets that pass *outside* of probate include accounts with named beneficiaries (life insurance, IRAs, 401(k)s), jointly-owned property with right of survivorship, and assets held in a trust. Probate only governs assets titled solely in the decedent's name with no designated beneficiary.

For household contents, furniture, jewelry, and personal effects — Texas law allows heirs to divide and distribute personal property by agreement, without court involvement, as long as there are no disputes and no creditor claims that require formal administration.

■ Watch for Creditor Claims

Even in small estates, creditors have the right to make claims against estate assets. Distributing assets to heirs before settling debts can expose the executor to personal liability. When in doubt, consult a probate attorney before distributing anything.

✓ Small Estate, Big Decisions

Even when an estate has no real property, families often face meaningful decisions about sentimental items and fair distribution. Having a clear understanding of who has legal authority to make decisions can prevent disagreements from escalating.

What Goes Wrong — and Why

Mistake 1: Assuming insurance covers everything

As covered in Section 5, vacancy clauses are real and frequently invoked. Do not assume existing coverage is sufficient. Contact the insurer within the first week and document the conversation.

Mistake 2: Letting the property sit vacant too long without action

Every month of delay is a month of property taxes, insurance, utilities, and maintenance. It's also a month of market exposure lost. Begin the process as soon as you have legal authority to act.

Mistake 3: Accepting the first investor offer out of a desire to be done

Unsolicited offers from investors or 'we buy houses' companies are almost always 20–40% below market value. Always get a market analysis from a licensed agent before accepting any offer. In a recent probate sale, we received three competitive cash offers, then a fourth offer came in \$60,000 above the next best offer — and it still closed quickly. Don't give away equity for no reason.

Mistake 4: Misunderstanding decision authority among heirs

Only the executor has legal authority to make decisions. Everyone else has input, but not authority. Establishing this clearly early prevents standoffs that can delay a sale for months.

Mistake 5: Over-improving the property

Probate properties are typically sold 'as-is' and buyers expect this. Major improvements rarely return full value in a probate context. Focus on cleaning, decluttering, and minor repairs.

Mistake 6: Missing deadlines for tax filings or required court notices

Texas probate has procedural deadlines — including notices to creditors, inventory filings, and tax return deadlines. Missing them can expose the executor to personal liability.

What's Different — and What Isn't

Many of the fundamentals of selling a home are the same in a probate context — pricing, marketing, negotiations, inspections, and closing. But there are important differences that every executor and heir should understand before listing the property.

Traditional Sale	Probate Sale
Seller is the living owner — authority is simple	Seller is the estate — authority must be documented
Standard purchase agreement	Purchase agreement may include probate-specific addenda
Seller discloses known material defects	Executor typically has limited knowledge of property history — disclosures may differ
Flexible closing timeline	Timeline may depend on court schedules or estate accounting
Proceeds go to seller at closing	Proceeds go to estate account; distributed to heirs after debts are settled
Any licensed agent can assist	Strongly recommended: agent with probate experience and title company familiar with estate closings

A Note on 'As-Is' Sales

Probate properties are frequently sold in as-is condition. Texas law still requires disclosure of known material defects. Buyers typically understand they are purchasing a home that may need updating and price their offers accordingly — a reasonable tradeoff that avoids the cost and complexity of renovation.

Not All Real Estate Experience Is the Same

A Certified Probate Real Estate Specialist (CPRES) has completed specialized training in the intersection of real estate and estate law. This is important for executors because the consequences of procedural errors — using the wrong documentation, missing a required notice, or choosing a title company unfamiliar with estate closings — can delay or derail a sale.

What a Probate Specialist Helps With

✓ Pricing strategy that reflects the estate context

Probate properties have unique buyer pools and market dynamics. An experienced specialist knows how to price to attract qualified buyers, not just investors.

✓ Documentation and authority verification

Before listing, a probate specialist ensures all required legal documents are in order so there are no surprises at closing.

✓ Coordination with probate attorneys and title companies

A probate sale requires a team. A specialist has established relationships with attorneys and title companies who understand estate transactions.

✓ Managing heir communication and expectations

When multiple heirs are involved, a neutral professional can help facilitate agreement and keep the process on track.

✓ Property condition assessment and prep guidance

What repairs are worth doing and what should be left as-is? A specialist provides objective guidance so the estate doesn't over- or under-invest.

Questions about a Texas probate property? Call 512-757-7325 for a free, no-obligation conversation.

A Trusted Guide Through One of Life's Most Difficult Moments



Nate Clark

Certified Probate Real Estate Specialist

Nate's path into probate real estate is personal. When his grandmother Sally passed away, her estate became the subject of a lengthy, contested three-year administration — confusing, stressful, and full of blind spots that no one in the family saw coming. The experience opened his eyes to how vulnerable executors and heirs are when it comes to estate-owned property, and how much unnecessary pain comes from simply not knowing what to expect.

That experience is what drives him today. With over **10 years of experience** and **more than \$150 million in real estate sales**, Nate approaches every probate engagement from a place of service — working to shoulder as much of the real property burden as possible so families can focus on what matters most. He works patiently with executors, heirs, and beneficiaries — often across multiple family members with different needs — and brings the same depth of experience to investors and heir groups looking to maximize estate value.

Nate holds the Certified Probate Real Estate Specialist (CPRES) designation and is a licensed Texas REALTOR® with Altitude Real Estate Group in Austin.

10+

Years Experience

\$150M+

Real Estate Sales

CPRES

Certified Specialist

You Don't Have to Navigate This Alone

Most families navigating probate real estate have never done it before. That's completely normal — and it's exactly why having an experienced, knowledgeable specialist in your corner matters.

Whether you're in the early days after a loss, in the middle of the probate process, or ready to list the property — a brief conversation can help you understand exactly where you stand and what your options are.

Your Immediate Next Steps

- Step 1:** Complete the property protection checklist in Section 4 — today if possible
- Step 2:** Contact the homeowner's insurer to verify vacancy coverage
- Step 3:** Confirm you have (or are obtaining) Letters Testamentary or Administration
- Step 4:** Talk to a Texas probate attorney if the estate is complex or contested
- Step 5:** When ready to discuss the property, reach out for a free market analysis

Ready to Talk? There's No Obligation.

I work with Texas executors and heirs throughout the probate process — from the first question to a successful closing. Every situation is different, and I'm happy to provide clarity specific to yours.

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This guide is for informational purposes only and does not constitute legal advice. Consult a licensed Texas probate attorney for guidance specific to your situation.