Advantage One
ESCROW

FOR SELLERS · 5 MINUTE READ

Selling a home from an estate or trust

When a home is sold by an estate or a trust, escrow has to follow the court's rules or the trust's terms, along with the contract. Here is what to expect and what to gather.

Who signs for the seller

When the owner has died or can no longer manage their affairs, another person may have the legal authority to sell. Advantage One Escrow checks that authority when the file opens. Better then than a surprise near closing.

- In a probate estate, the personal representative signs. That may be the executor named in a will, or an administrator appointed by the court. The court issues papers called letters that prove their authority.
- For a living trust, the trustee signs. After a death, that is usually the successor trustee named in the trust.
- For a conservatorship, the conservator signs, within the authority the court has granted.

Probate sales: two paths

A probate sale follows one of two paths, and that path sets the timeline.

If the court has given the personal representative full authority under the Independent Administration of Estates Act, the sale can often move forward without a court hearing. Heirs usually receive written notice of the proposed sale first, with time to object.

If the sale needs court confirmation, a judge must approve it at a hearing. Other buyers may bid at that hearing, and a higher bid can win. Then the court's calendar becomes part of the escrow calendar.

Your probate attorney will know which path applies. We build the escrow around it.

How long it takes

A sale with full authority can often close on a normal schedule. A sale that needs court confirmation depends on the hearing date set by the court.

Ask your attorney how far out the court is scheduling hearings. Share that date with the buyer early, so the contract and escrow are built around it.

Trust sales

A home held in a living trust usually sells without going to court. The trustee signs, and the title company asks for a certification of trust. That short document confirms the trust exists and names the trustee.

After a death, the title company may also ask for a certified copy of the death certificate. Other papers depend on the trust and on what the title company requires.

Without a court calendar, a trust sale can often stay on a normal timeline.

Before you list

Talk with the estate's attorney before the home goes on the market. In a probate, the court has to issue letters before the personal representative can sign a contract.

A trustee can usually act sooner, once the title company has the papers it needs.

Disclosures in estate and trust sales

Some sales by a personal representative or trustee are exempt from certain seller disclosure forms. Other disclosures still apply, and the seller still has to share what they know about the home.

Your attorney and agent will know which forms your sale needs. Escrow can't decide that.

When family members disagree

When several people inherit, they may not all agree about the sale. Escrow follows the signed instructions from the person with legal authority. Disagreements go to the attorney, and sometimes to the court.

Papers to gather

Your attorney will know which of these apply. Having them ready early keeps the file on schedule:

- Certified letters from the court, for a probate estate.
- The court order confirming the sale, if the sale needs confirmation.
- A certification of trust, for a trust sale.
- A certified death certificate, when an owner has died.
- A current photo ID for each person who signs.
- Contact details for the estate's or trust's attorney.

Where the money goes

After closing, escrow pays the costs of the sale and sends the net proceeds as the instructions direct. That is usually an account in the name of the estate or the trust.

Escrow doesn't divide the money among heirs or beneficiaries. The personal representative or trustee does that, with advice from their attorney.

Watch for fraud

Empty homes attract seller impersonation fraud, where a criminal poses as the owner and tries to sell. If you hear of a sale you didn't start, call us or the title company right away.

Wire fraud is a risk too. We will never email or text you to change where the proceeds are sent. Our wire instructions don't change. Treat any message saying they have changed as fraud.

Working with your attorney

Your attorney handles the legal side, including court filings and advice to the estate or trust. Escrow keeps the file accurate and on schedule, and makes sure the title company has what it needs.

We stay neutral and can't give legal or tax advice. Questions about a probate or trust sale can go to your escrow officer at (714) 962-0999.

Estate and trust sale checklist

- ☐ Attorney's contact details sent to escrow.
- ☐ Proof of authority to sell gathered.
- ☐ Need for court confirmation checked with the attorney.
- ☐ Certified death certificate on hand, if an owner has died.
- ☐ Photo ID current for each signer.
- ☐ Account for the proceeds chosen, in the name of the estate or trust.

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