



WHAT IS AN ALL- INCLUSIVE Probate Sale?

A probate sale is one in which a recently deceased person's home is sold through a process handled in the local probate court. Probate court handles property that is left when someone dies. The estate's executor will typically find a real estate agent to market the property, as with the usual home sale. However, the sale is overseen by the probate court, and certain rules must be followed.

These sales often occur because the deceased died without a will, or intestate. A probate sale might also occur because the deceased wrote in their will that the property should be sold. Or, the estate may have debts that need the cash from the sale of the house to pay them off. In all of these cases, the house is sold in order to convert the asset to cash, which can then be distributed to those who are owed debts, or to beneficiaries of the deceased.

Who Assists in a Probate Sale?

There are multiple parties who will be involved in a probate sale, in addition to any parties within the probate court itself. Typical parties involved in a probate sale include:

- **Executors of the estate:** These are persons appointed to oversee the estate. They see that debts are paid, and assets are distributed to beneficiaries. If there is a will, they observe the terms of the will. If there is no will, other rules apply;
- **Real estate agents:** Typically, the executor will seek a real estate agent to list the property in question. While the property will be marketed in the usual way, other rules will apply to the actual sale. These will be discussed further below;
- **Appraisers:** These are people, often hired by banks, to value a home. This allows the home to be sold for the best possible value.

Are there any Risks or Legal Concerns with Probate Sales?

Probate sale homes are sometimes listed at relatively low prices. Unfortunately, the reason for this is often because the home has not been fixed up to prepare it for sale in the way a seller would normally fix up a home. Since the home is being sold to settle a deceased person's estate, they will not have prepared the house in anticipation of sale. Executors will not usually do anything to make the house more marketable, and will, instead, price the house lower to make it more attractive to buyers. This is due at least in part to the minimal cash available in such a situation (prior to the sale of the home).

Also, in the absence of the home's previous owner, there may be no one to disclose any known defects of the house. This is standard in home sales, and allows buyers to know what they are taking on. Potential buyers of probate sale homes will want to get a home inspection early, in order to determine any costly issues, even though they may not end up purchasing the home.

Buyers of these types of homes should be aware of just how different a home sale is when it is handled through probate court. They will be required to put down a 10% deposit up front when they offer on the house. Additionally, buyers should know that courts move slowly. It will take more time to buy a home through probate court than it would to buy a home in the regular way.

How is the Sale Handled in the Probate Court Process?

The buyer will make an offer on the probate sale home to the seller, who is most likely the estate executor. As already mentioned, the buyer must pay a 10% deposit, which is paid in addition to the usual down payment placed on a home. The executor may counter the offer, or not, and eventually accept, but that does not mean the deal is done. The executor must then petition the probate court, who must approve the sale.

In some states, even if there is a buyer who has made an offer, the court will still allow other person interested in the property to show up to the sale confirmation and bid. The house will then be auctioned off. If the original bidder/buyer does not win the auction, they should be entitled to the return of their 10% deposit. However, if their sale goes through, the deposit may not be refundable.



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