

PROBATE REQUIREMENTS

Title Documentation for Personal Representatives



Imagine for a moment that you are appointed the Personal Representative for a relative and you have to distribute the assets of your deceased relative's estate. Not only are you dealing with the obvious emotional toll that serving in such a position may bring, it is also likely an unfamiliar role that you are playing and you are likely telling yourself to just "fake it until you make it".

One of the assets of the estate is the home where your relative lived before passing away. You engage a listing broker and prepare the home for showings to prospective buyers and finally one of the buyers makes an offer and you go under contract to sell the home. Now comes the run-up to the closing and you are working with the title company.

Here, a title company will be reviewing title to the property and preparing the closing documents. In order to provide title insurance for the buyer and ensure a good and sufficient conveyance of the property, the title company will have certain requirements that include documentation related to the probate establishing the Personal Representative's authority to deal with the property and to make a conveyance.

A title company will request:

1. Certified copies of the Letters of Testamentary
2. Certified copies of the Letters of Appointment
3. Court order approving distribution of real property (in cases where the property is being distributed to PR)
4. Personal Representative's Deed sufficient to convey the property to the Grantee
5. Evidence that the Estate does not/will not owe any federal estate tax

The above list is a general list of the requirements for a probate and may be revised by the title company based upon the specific circumstances of the deceased, his or her estate, and the transaction.

In Colorado, probate is the legal process by which title to assets are transferred from the decedent to his or her devisees (recipients named in the will – testate estate) or heirs (recipients named by law – intestate estate) where the ownership of the assets are not owned as joint tenants. All wills and intestate estates must be probated, but the degrees of court involvement and complexity range from simple and inexpensive to complicated and costly. Three types of probates:

1. Small estates (under \$50,000 and no real property)
2. Uncontested estates (informal)
3. Contested estates and invalid or questionable wills ("formal")

First Integrity Title Company knows that serving as a Personal Representative can be a stressful and an intimidating role. We suggest that you reach out early to our closing teams so that we can arrange to receive all the necessary probate documentation well ahead of the closing and avoid any delays.