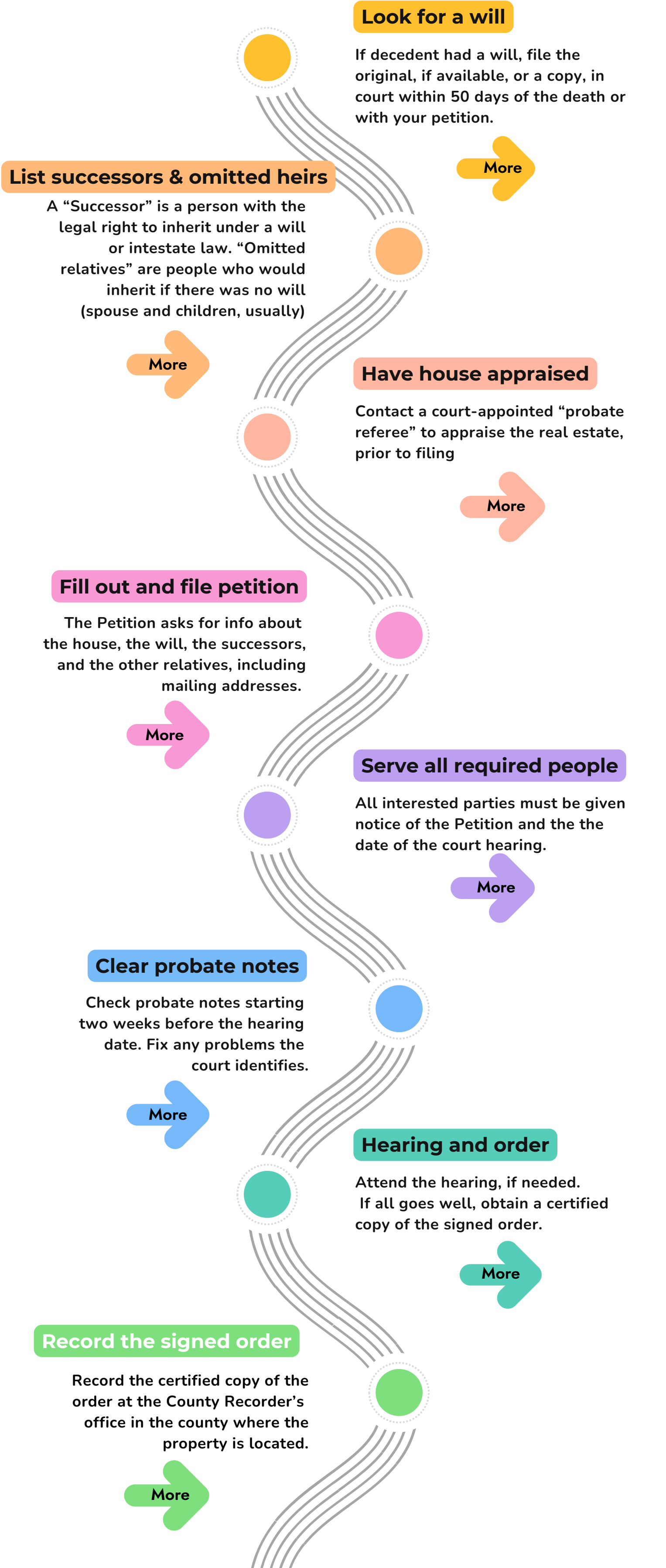


Petition for Succession

Transferring a Primary Residence Under \$750,000





Look for a will

If decedent had a will, file it with the local court either within 50 days of the death, or with your petition. File the original signed paperwork if at all possible.

Most people keep their wills in obvious locations such as their desk or in a file with their other important papers. It may also be in a safe deposit box. Their lawyer's office may have a copy.

Wills can be either typed or handwritten.

You should also look for codicils (amendments to the will) or later versions of the will.



Who are the successors?

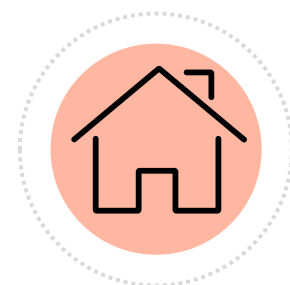
If there is a will, it controls who inherits. If there is no will, California intestate law determines who is entitled to the property.

If there is no will, the decedent is said to have died “intestate.” Intestate succession is determined by California law (Probate Code 6401 and 6402) with some exceptions for omitted spouses and omitted children.

Figuring out who the successors without a will can be a bit tricky. Here is some helpful information: “Intestate Succession in California.” <https://www.nolo.com/legal-encyclopedia/intestate-succession-california.html>

Omitted relatives

Some people may have succession rights even if they are not named in a will. For instance, a spouse who is not listed in the will and children born after the will was signed may be entitled to inherit a portion.



Have house appraised

Contact a court-appointed “probate referee” to appraise the real estate, prior to filing the Petition.

The house must be appraised so that the court can verify that you qualify for a Petition to Determine Succession to Primary Residence. The appraised amount will also provide a limit to your personal liability for the decedent’s unsecured debts.

The law requires that the appraisal be done by a court-approved Probate Referee. Contact the court in the county where the property is located to find contact information for the appraisal.

The Referee will enter the amount in the Inventory And Appraisal form that you will attach to your petition.



Fill out and file petition

The Petition asks for info about the house, the will, the successors, and the other relatives, including mailing addresses.

At least 40 days after decedent's death, file a petition (DE-310) and order (DE-315) in county where the decedent lived when they died. This petition requests a court order determining that the petitioner or petitioners has or have succeeded to that real property.

Petition (DE-310)

The petition gives the judge the exact information required by the law. It contains information about the house, the successors, and any other people who might make a claim to the property. You will need to collect and attach a number of documents, and provide mailing addresses for any people you list as potentially making a claim.

Order (DE-315)

The Order is mostly made up of factual information from the Petition. Fill it out and file it along with the Petition.

Filing

File these papers, along with the required fee or Fee Waiver form, at the appropriate courthouse. In Sacramento, probate is handled at the Ridgeway Family Courthouse, 3341 Power Inn Road, Sacramento.



Serve all required people

All interested parties must be given notice of the Petition and the the date of the court hearing.

When you file, the court clerk will assign your petition a hearing date. Fill it in on page 1 of Petition (DE-310).

a. Within five court days of filing the petition (and at least 15 days before the hearing), have **someone else** serve (by mail or personal delivery) a complete copy of the Petition (DE-310 and attachments), to each person listed on Attachment 14, Attachment 15, and Attachment 16.

b. Fill out Notice of Hearing—Decedent's Estate or Trust (DE-120), other than the Proof of Service portion. The person who served the copies must fill out and sign the Proof of Service after doing so. You must then file the original DE-120 with the court.



Clear probate notes

Check probate notes starting two weeks before the hearing date. Fix any problems the court identifies.

About two weeks before the hearing, you should start checking with the court for “probate calendar notes.” In Sacramento, you access these through court’s online portal. Calendar notes are lists of items that the court needs from you due to an error or omission from your initial filing. You must respond to these (in Sacramento, there is a required local form to use) and filing any missing items prior to the hearing.

We have a guide on responding to Calendar Notes that may be useful. Note: although the guide is intended for guardianship or conservatorship cases, the basic instructions and samples are the same for all probate cases.

**[Guide to
Clearing Probate
Calendar Notes](#)**





Hearing and order

Attend the hearing, if needed.

If all goes well, obtain a certified copy of the signed order.

If the court has all the information it needs and there are no complications such as objections from other interested parties, you may not need to attend the hearing. Call the clerk to verify whether attendance is required and how to get a copy of the order if not.

Remote appearance: In many counties, including Sacramento, you have the option of attending by videoconference or telephone. If you want to do that, check with the clerk to see if you need permission ahead of time and how to access the videoconference.

What if someone objects? If there are objections, or if a competing petition is filed, the court may 1. continue the matter so that you can respond to the objections; 2. set the case for a trial; or 3. dismiss it without prejudice so you can bring a full probate.

If you anticipate objections, you may want to consider filing a full probate right away instead of a petition to avoid paying multiple fees and unnecessary delays.



Record the signed order

Record the certified copy of the order at the County Recorder's office in the county where the property is

Once the judge signs your order, request a certified copy and record it at the recorder's office in the county where the property is located, along with a Preliminary Change of Ownership Report (PCOR). The process is now complete.