Probate & Heirship

Inherited a home? Understand probate, heirship affidavits, and your options.

Inheriting a property often comes with paperwork, family decisions, and expenses. Here's a plain-language overview of how inherited property typically moves to the heirs in Texas.

Quick takeaways

- ✓ Heirs usually can't sell until title is cleared through probate or heirship.
- ✓ Texas offers faster paths: independent administration, muniment of title, affidavits.
- ✓ Without a will, an Affidavit of Heirship may be enough for some title companies.
- ✓ You can keep, rent, list, or sell the home as-is and split the proceeds.

1. What is probate?

Probate is the court process that validates a will (if there is one), pays the deceased person's debts, and transfers property to the rightful heirs. Until title is cleared, heirs usually cannot sell or refinance the home.

2. With a will

If the deceased left a will, an executor typically files it with the county probate court. In Texas, many estates qualify for independent administration, which is faster and requires less court oversight. A will may also be probated as a 'muniment of title' when there are no unpaid debts other than real estate liens.

3. Without a will — Affidavit of Heirship

When there is no will, Texas law decides who the heirs are. An Affidavit of Heirship, signed by two disinterested witnesses who knew the family, can be recorded in the county property records to show who inherited the home. Some title companies accept this to sell the property; others require a court 'Determination of Heirship'.

4. Small Estate Affidavit

Smaller estates (generally under $75,000 excluding the homestead) may qualify for a Small Estate Affidavit, which can avoid full probate. Note it usually only transfers a homestead, not other real estate.

5. Common challenges

Multiple heirs who disagree, heirs living out of state, back taxes, liens, a mortgage still owed, or a vacant home needing repairs. Each adds time and cost — which is why planning early matters.

6. Your options

Keep the home and transfer title; rent it out; list it with an agent once title is clear; or sell to a cash buyer who can work with title companies and probate attorneys and buy the home as-is, splitting proceeds among heirs.

We can connect you with probate attorneys and title companies, and help you weigh the options for the property.

Questions? Talk to us — free, no-obligation consultation. Call (000) 000-0000 or email moralhomeexperts@gmail.com.

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