

**HOW TO GET TITLE TO REAL PROPERTY WITHOUT
“PROBATE”**

**Petition to Determine Succession to Real Property
\$100,000 limit**

Pr.C. §.13151 (form DE-310). Must file documents with court and get order.

- **Total estate is \$100,000 or less.** Need real property, may add personal property
- If decedent is resident of California, file in domicile county. If not, file in county where real property is located.
- 40 days since death is first chance to file
- Filing fee: \$320
- 15 days notice (served by mail) on everyone listed in the petition (excluding petitioners)
- Will need legal description, APN
- All heirs must sign and be petitioners
- Attach copy of will. If the will is handwritten, also include a typed version.
- Inventory & Appraisal (DE-160) must also be completed. Needs Probate Referee in county of property location to sign it. Referee will charge a small fee. (<http://www.sco.ca.gov/eo/probate/contactinfo.shtml>)
- Order Determining Succession (DE-315) is required. Once Judge signs order, take to County Recorder in order to change title.
- CAVEAT: person taking property under this procedure is personally liable for the decedent's unsecured debts for the value received.

**Small Estate Affidavit
\$20,000 Limit**

Pr.C. §.13200 (form DE-305) Filed with the court but there is no court order.

- **Total estate is \$20,000 or less**, real property only
- Must wait 6 months after death before can file the Affidavit form.
- If decedent is resident of California, file in domicile county. If not, file in county where real property is located.
- Need to have paid all funeral expenses, expenses of last illness and unsecured debts of the decedent prior to filing the Affidavit. CAVEAT: Will be liable for unsecured debts. Will have to reimburse if a Probate Estate is opened.
- Must be notarized
- Attach Inventory & Appraisal (DE-160). Needs Probate Referee to sign it. Probate Referee must be appointed for the county where the real property is located. Referee will charge a small fee. (<http://www.sco.ca.gov/eo/probate/contactinfo.shtml>)
- Attach copy of will (and typed version if handwritten)
- Attach a certified copy of the death certificate
- Person submitting affidavit must mail a copy of the affidavit to all persons mentioned in the document (family).
- Fee is \$20. You get 1 certified copy back.
- Record the certified copy of the Affidavit with the County Recorder.