

Pet Trust Primer

Those of us who think of our companion animals as family members are becoming aware of the fact that part of our responsibility to these dependent creatures is to make sure that their care and comfort continue uninterrupted should we become incapable of caring for them ourselves. One way to plan for that contingency is to set up something called a pet trust. To help you decide if this might work for you, here are some basic definitions to keep in mind:

What Is It?

A pet trust is a legally sanctioned arrangement providing for the care and maintenance of one or more companion animals in the event of a grantor's disability and/or death. The "grantor" is the person who creates the trust, which may take effect during his or her lifetime or at death. Typically, a trustee will hold property (cash, for example) "in trust" for the benefit of the grantor's pets. Payments to a designated caregiver(s) will be made on a regular basis. The trust, depending upon the state in which it is established, will continue for the life of the pet or 21 years, whichever occurs first. Some states allow a pet trust to continue for the life of the pet without regard to a maximum duration of 21 years. This is particularly advantageous for companion animals that have an extended life expectancy, such as horses and parrots.

How To Proceed?

Since there are many states in which a pet trust is not valid, and other states where enforcement is discretionary, it is advisable to set up a trust with the help of an attorney who specializes in estate planning. The following 16 states currently have some form of pet trust law: Arizona, California, Colorado, Hawaii, Iowa, Michigan, Missouri, Montana, New Mexico, New York, Nevada, North Carolina, Oregon, Tennessee, Utah and Wisconsin. If a pet trust law does not exist in your state, contact your state representatives and ask why. It may be that the subject just never came up!

Why a Pet Trust?

Because most trusts are legally enforceable arrangements, pet owners can be assured that their directions regarding their companion animal(s) will be carried out. A trust can be very specific. For example, if your cat only likes a particular brand of food or your dog looks forward to daily romps in the park, this can be specified in the trust agreement. If you want your pets to visit the veterinarian three times a year, this can also be specified. A trust that takes effect during the life of the pet owner can provide instructions for the care of the animal(s) in the event that the pet owner becomes incapacitated. Since pet owners know the particular habits of their companion animals better than anyone else, they can describe the kind of care their pets should have and list the person(s) who would be willing to provide that care.

Doing Your Homework

In addition to providing the name and address of a trustee and successor trustee, a caregiver and successor caregiver (all of whom can be corporations and/or individuals), you will be asked to provide enough information to:

- adequately identify your pets in order to prevent fraud, such as through photos, microchips, DNA samples or, alternatively, by describing your pet as a "class"—in other words, as "the pet(s) owned by you at the time of your death/illness";
- describe in detail your pet's standard of living and care;
- require regular inspections of your pets by the trustee;
- determine the amount of property needed to adequately cover the expenses for your pet's care (generally, this amount cannot exceed what may reasonably be required given your

- pet's standard of living), and specify how the funds should be distributed to the designated caregiver;
- determine the amount of property needed to adequately cover the expenses of administering the pet trust;
 - designate a remainder beneficiary in the event that the funds in the pet trust are not exhausted; and
 - provide for the final disposition of your pet.

Pet trusts can offer pet owners a great deal of flexibility and peace of mind. In states where no pet trust law exists, however, or if a companion animal has a long life expectancy, other arrangements must be considered in combination with or instead of a pet trust.

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