

Those of us who think of our companion animals as family members are becoming increasingly aware that part of our responsibility to them 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 and guidelines to keep in mind:

What is a Pet Trust? 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 or death. The "grantor" (also called a settlor or trustor in some states) is the person who creates the trust, which may take effect during a person's 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. Depending upon the state in which it is established, the trust 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 who have longer life expectancies than cats and dogs, such as horses and parrots.

How to Proceed? Since there are several 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 states currently have some form of pet trust law: Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Maine, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oregon, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. 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 if your dog looks forward to daily romps in the park, this can be specified in a trust agreement. If you want your pet to visit the veterinarian four times a year, this can also be included. 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 the pet owner becomes incapacitated (sick, injured, comatose, etc.) 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.

Do 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 via 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 illness/death;
- Describe in detail your pet's standard of living and care;
- Require regular inspections of your pet(s) 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 caregiver;
- Determine the amount of property needed to adequately cover the expenses of administering the pet trust;
- Designate a remainder beneficiary in the event the funds in the pet trust are not exhausted;
- Provide for the final disposition of your pet (for example, burial or cremation).

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

For more information, visit Rachel Hirschfeld, Pet Trust Attorney at <http://www.pettrustlawyer.com/>

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