

AMENDED IN SENATE JANUARY 7, 2008

AMENDED IN SENATE APRIL 10, 2007

**SENATE BILL**

**No. 685**

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**Introduced by Senator Yee**

February 23, 2007

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~~An act relating to gaming.~~ *An act to amend Section 15211 of, and to repeal and add Section 15212 of, the Probate Code, relating to pet trusts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 685, as amended, Yee. ~~Indian Gaming Revenue Sharing Trust Fund: study.~~ *Pet trusts.*

*Existing law provides that a trust for a noncharitable corporation or unincorporated society or for a lawful noncharitable purpose may be performed by the trustee for only 21 years, as specified. Existing law provides that a trust for the care of a designated domestic or pet animal may be performed by the trustee for the life of the animal, whether or not there is a beneficiary who can seek enforcement or termination of the trust and whether or not the terms of the trust contemplate a longer duration.*

*This bill would repeal the provisions regarding domestic or pet animal trusts and enact new provisions that would function as an exception to the limitation on the duration of trusts for a noncharitable corporation or unincorporated society or for a lawful noncharitable purpose, as described above. The bill would provide that a trust for the care of a designated domestic or pet animal is valid and terminates when no living animal is covered by the trust, subject to certain requirements. The bill would require a court to liberally construe a pet trust to bring it within the bill's provisions, to presume against an interpretation that*

would render the disposition a mere request or an attempt to honor the pet, and to carry out the general intent of the transfer. The bill would provide an order of disposition of trust property upon termination of the trust and would provide authority for the court to name a trustee and to transfer trust property, as specified.

~~Existing law creates the Indian Gaming Revenue Sharing Trust Fund for the receipt and deposit of moneys derived from gaming device license fees that are paid into the fund pursuant to the terms of tribal-state gaming compacts for the purpose of making distributions to noncompact tribes.~~

~~This bill would direct the California Research Bureau to conduct, using its existing resources, a one-year study to measure the economic impact that payments from the fund have had on the noncompact tribal recipients and the improvements to the noncompact tribes economic conditions since revenue sharing was implemented. This bill would further require the bureau to report its findings to the Legislature no later than June 1, 2009.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 15211 of the Probate Code is amended  
2     to read:

3     15211. ~~A~~Except as provided in Section 15212, a trust for a  
4     noncharitable corporation or unincorporated society or for a lawful  
5     noncharitable purpose may be performed by the trustee for only  
6     21 years, whether or not there is a beneficiary who can seek  
7     enforcement or termination of the trust and whether or not the  
8     terms of the trust contemplate a longer duration.

9     SEC. 2. Section 15212 of the Probate Code is repealed.

10    15212. ~~A trust for the care of a designated domestic or pet~~  
11    ~~animal may be performed by the trustee for the life of the animal,~~  
12    ~~whether or not there is a beneficiary who can seek enforcement or~~  
13    ~~termination of the trust and whether or not the terms of the trust~~  
14    ~~contemplate a longer duration.~~

15    SEC. 3. Section 15212 is added to the Probate Code, to read:

16    15212. (a) Subject to the requirements of this section, a trust  
17    for the care of a designated domestic or pet animal is valid. The  
18    trust terminates when no living animal is covered by the trust. The

1 governing instrument of the animal trust shall be liberally  
2 construed to bring the transfer within this section, to presume  
3 against the merely precatory or honorary nature of the disposition,  
4 and to carry out the general intent of the transferor. Extrinsic  
5 evidence is admissible in determining the transferor's intent.

6 (b) A trust for the care of a designated domestic or pet animal  
7 is subject to the following requirements:

8 (1) Except as expressly provided otherwise in the trust  
9 instrument, the principal or income shall not be converted to the  
10 use of the trustee or to any use other than for the trust's purposes  
11 or for the benefit of a covered animal.

12 (2) Upon termination of the trust, the trustee shall transfer the  
13 unexpended trust property in the following order:

14 (A) As directed in the trust instrument.

15 (B) If the trust was created in a nonresiduary clause in the  
16 transferor's will or in a codicil to the transferor's will, under the  
17 residuary clause in the transferor's will.

18 (C) If the application of subparagraph (A) or (B) does not result  
19 in transfer of unexpended trust property, to the transferor's heirs  
20 under Section 21114.

21 (3) For the purposes of Section 21110, the residuary clause  
22 described in subparagraph (B) of paragraph (2) shall be treated  
23 as creating a future interest under the terms of a trust.

24 (4) The intended use of the principal or income may be enforced  
25 by a person designated for that purpose in the trust instrument or,  
26 if none is designated, by a person appointed by a court upon  
27 application to the court by that person.

28 (5) Except as ordered by the court or required by the trust  
29 instrument, no filing, report, registration, periodic accounting,  
30 separate maintenance of funds, appointment, or fee is required by  
31 reason of the existence of the fiduciary relationship of the trustee.

32 (6) If a trustee is not designated or no designated trustee is  
33 willing or able to serve, a court shall name a trustee. A court may  
34 order the transfer of the trust property to a trustee, if it is required  
35 to assure that the intended use is carried out and if a successor  
36 trustee is not designated in the trust instrument or if no designated  
37 successor trustee agrees to serve or is able to serve. A court may  
38 also make all other orders and determinations as it shall deem  
39 advisable to carry out the intent of the transferor and the purpose  
40 of this section.

1     ~~SECTION 1. The California Research Bureau of the California~~  
2     ~~State Library shall conduct a one-year study to measure the~~  
3     ~~economic impact that payments from the Indian Gaming Revenue~~  
4     ~~Sharing Trust Fund, as set forth under Section 12012.75 of the~~  
5     ~~Government Code, have had on the noncompact tribal recipients,~~  
6     ~~and the improvements to the noncompact tribes economic~~  
7     ~~conditions since revenue sharing was implemented. The bureau~~  
8     ~~shall conduct the study using its existing resources, and a report~~  
9     ~~to the Legislature no later than June 1, 2009.~~