

AMENDED IN ASSEMBLY JUNE 19, 2008
AMENDED IN ASSEMBLY MAY 27, 2008
AMENDED IN SENATE JANUARY 23, 2008
AMENDED IN SENATE JANUARY 9, 2008
AMENDED IN SENATE JANUARY 7, 2008
AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 685

Introduced by Senator Yee
(Coauthor: Senator Padilla)
(Coauthor: Assembly Member Galgiani)

February 23, 2007

An act to repeal and add Section 15212 of the Probate Code, relating to pet trusts.

LEGISLATIVE COUNSEL'S DIGEST

SB 685, as amended, Yee. Pet trusts.

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 would provide instead that a trust for the care of a ~~designated~~ domestic or pet animal is for a lawful noncharitable purpose and terminates when no ~~designated~~ animal is living on the date of the settlor's death, unless otherwise provided in the trust. The bill would

require a court to liberally construe ~~a pet~~ *an animal* 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~~ *animal*, and to carry out the general intent of the trust. 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. This bill would permit any person interested in the welfare of the ~~pet~~ animal or any nonprofit charitable organization that has as its principal activity the care of animals to petition the court regarding the trust, as specified. The bill would provide a process for an accounting of the trust, to be waived if the value of the trust assets does not exceed \$40,000, as specified. The bill would permit beneficiaries of the trust, a person designated by the trust, or certain nonprofit charitable organizations, upon reasonable request, to inspect the animal, the premises where the animal is maintained, or the books and records of the trust. The bill would except these trusts from the application of specified provisions generally regarding the termination of trusts.

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

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

1 SECTION 1. Section 15212 of the Probate Code is repealed.
2 SEC. 2. Section 15212 is added to the Probate Code, to read:
3 15212. (a) Subject to the requirements of this section, a trust
4 for the care of ~~a designated domestic or pet~~ *an animal* is a trust for
5 a lawful noncharitable purpose. Unless expressly provided in the
6 trust, the trust terminates when no ~~designated~~ animal living on the
7 date of the settlor's death remains alive. The governing instrument
8 of the animal trust shall be liberally construed to bring the trust
9 within this section, to presume against the merely precatory or
10 honorary nature of the disposition, and to carry out the general
11 intent of the settlor. Extrinsic evidence is admissible in determining
12 the settlor's intent.
13 (b) A trust for the care of ~~a designated domestic or pet~~ *an animal*
14 is subject to the following requirements:
15 (1) Except as expressly provided otherwise in the trust
16 instrument, the principal or income shall not be converted to the

1 use of the trustee or to any use other than for the trust's purposes
2 or for the benefit of a covered *the* animal.

3 (2) Upon termination of the trust, the trustee shall distribute the
4 unexpended trust property in the following order:

5 (A) As directed in the trust instrument.

6 (B) If the trust was created in a nonresiduary clause in the
7 settlor's will or in a codicil to the settlor's will, under the residuary
8 clause in the settlor's will.

9 (C) If the application of subparagraph (A) or (B) does not result
10 in distribution of unexpended trust property, to the settlor's heirs
11 under Section 21114.

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

15 (c) The intended use of the principal or income may be enforced
16 by a person designated for that purpose in the trust instrument or,
17 if none is designated, by a person appointed by a court. In addition
18 to a person identified in subdivision (a) of Section 17200, any
19 person interested in the welfare of the pet animal or any nonprofit
20 charitable organization that has as its principal activity the care of
21 animals may petition the court regarding the trust as provided in
22 Chapter 3 (commencing with Section 17200) of Part 5.

23 (d) If a trustee is not designated or no designated or successor
24 trustee is willing or able to serve, a court shall name a trustee. A
25 court may order the transfer of the trust property to a
26 court-appointed trustee, if it is required to ~~assure~~ *ensure* that the
27 intended use is carried out and if a successor trustee is not
28 designated in the trust instrument or if no designated successor
29 trustee agrees to serve or is able to serve. A court may also make
30 all other orders and determinations as it shall deem advisable to
31 carry out the intent of the settlor and the purpose of this section.

32 (e) The accountings required by Section 16062 shall be provided
33 to the beneficiaries who would be entitled to distribution if the
34 animal were then deceased and to any nonprofit charitable
35 corporation that has as its principal activity the care of animals
36 and that has requested these accountings in writing. However, if
37 the value of the assets in the trust does not exceed forty thousand
38 dollars (\$40,000), no filing, report, registration, periodic
39 accounting, separate maintenance of funds, appointment, or fee is
40 required by reason of the existence of the fiduciary relationship

1 of the trustee, unless ordered by the court or required by the trust
2 instrument.

3 (f) Any beneficiary, any person designated by the trust
4 instrument or the court to enforce the trust, or any nonprofit
5 charitable corporation that has as its principal activity the care of
6 animals may, upon reasonable request, inspect the animal, the
7 premises where the animal is maintained, or the books and records
8 of the trust.

9 (g) A trust governed by this section is not subject to termination
10 pursuant to subdivision (b) of Section 15408.

11 (h) Section 15211 does not apply to a trust governed by this
12 section.

13 (i) *For purposes of this section, “animal” means a domestic or*
14 *pet animal for the benefit of which a trust has been established.*