

By Senator Burt

16-1381-02

1 A bill to be entitled
2 An act relating to pets; creating s. 737.107,
3 F.S.; providing for trusts for the care of a
4 pet animal; providing for termination of such
5 trusts; providing for distribution of trust
6 property upon termination; providing for
7 enforcement; waiving fees, reports,
8 accountings, or registration requirements
9 unless ordered by the court or required by the
10 trust instrument; providing for court
11 appointment of trustee and transfer of property
12 when a designated trustee cannot serve;
13 providing an effective date.

15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 737.107, Florida Statutes, is
18 created to read:

19 737.107 Trusts for pets.--

20 (1) A trust for the care of a designated domestic pet
21 or animal alive during the grantor's lifetime is valid and
22 enforceable. The trust terminates upon the death of such
23 designated animal or last surviving designated animal. A
24 governing trust instrument must be liberally construed against
25 the merely precatory or honorary nature of the disposition in
26 order to bring the transfer within the provisions of this
27 subsection and to carry out the grantor's general intent.
28 Extrinsic evidence is admissible in determining the grantor's
29 general intent.

30 (2) A trust created under this section is subject to
31 the following:

1 (a) Except as expressly provided otherwise in the
2 trust instrument, no portion of the principal or income may be
3 converted to the use of the trustee or to any use other than
4 for the trust's purposes or for the benefit of a designated
5 pet animal.

6 (b) Upon the trust's termination, the trustee shall
7 distribute the unexpended trust property in the following
8 order:

9 1. To the grantor, if living;

10 2. As directed in the trust instrument;

11 3. As provided in the residuary clause of the
12 grantor's will, if the trust was created in a nonresiduary
13 clause in the grantor's will or in a codicil to the will; or

14 4. If a taker is not produced by the application of
15 subparagraph 1., subparagraph 2., or subparagraph 3, to the
16 grantor's heirs.

17 (3) The intended use of the principal or income of the
18 trust property may be enforced by a person who is designated
19 for that purpose in the trust instrument or, if none, by a
20 person appointed by a court on application to it by any person
21 having an interest in the welfare of the designated pet or
22 domestic animal.

23 (4) Except as ordered by the court or required by the
24 trust instrument, no filing, report, registration, periodic
25 accounting, separate maintenance of funds, appointment, or fee
26 is required by reason of the existence of the fiduciary
27 relationship of the trustee.

28 (5) A court may reduce the amount of the trust
29 property if it finds that that amount substantially exceeds
30 the amount required for the intended use. The amount of the
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1 reduction, if any, passes as unexpended trust property under
2 paragraph (2)(b).

3 (6) If a trustee is not designated or no designated
4 trustee is willing or able to serve, a court shall appoint a
5 trustee. A court may order the transfer of the property to
6 another trustee if necessary to assure that the intended use
7 of the principal or income is carried out and if no successor
8 trustee is designated in the trust instrument or if no
9 designated successor trustee agrees to serve or is able to
10 serve. A court may also enter any order that it considers
11 advisable to carry out the grantor's general intent and the
12 purposes of this section.

13 Section 2. This act shall take effect July 1, 2002.

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15 SENATE SUMMARY

16 Provides for trusts for the care of pet animals. Provides
17 for the termination of such trusts and for the
18 distribution of trust property upon termination. Provides
19 for enforcement of trust provisions. Provides for the
20 waiver of reports, accountings, fees, and registration
21 requirements unless the court orders or the trust
22 instrument requires. Authorizes the court to appoint a
23 trustee and transfer trust property when a designated
24 trustee cannot serve.

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