

Estate Planning for Pets: What Happens to Your Beloved Pets After You Die?

Posted by Janet Brewer on Thu, Sep 02, 2010 @ 10:47 AM



My friends and clients know that I bring my dog, Chelsea, to work with me almost every day.

Making provisions for pets' care

If you, too, love your pets, your estate plan must include provisions for their care if you become incapacitated and after your death. If you do not adequately provide for your pets' care, chances are they will be dumped at the local pound.

Over the years, we have heard of numerous high profile people, such as Leona Helmsley, who have established multi-million dollar trusts for their pets' care. Although this is probably overkill for most of us, California, along with 38 other states, has enacted legislation which recognizes pet trusts. The California law allows courts to liberally construe pet trusts with the goal of carrying out the settlor's intent – that is, the law requires the courts to do its best to figure out the intentions of the person who set up the trust and give them the benefit of the doubt if it's not clear what the person intended. Moreover, courts are authorized to consider all relevant evidence of the settlor's intent.

How a pet trust works

Pet trusts are really not much different than a trust established for a minor child. A pet trust should name a guardian to care for the pet and should name a trustee who will be responsible for managing the funds in the trust and distributing those funds for the care and maintenance of your pet.

Specifying expenditures helps

The trust should clearly set forth how the funds should be spent, including:

- Types of food
- Grooming
- Walks and playtime
- Boarding when the guardian goes on vacation
- Routine medical care
- Allergies
- The extent to which medical care should be given in the event of a serious injury or illness
- Whether you want your pet to be euthanized in the event of terminal illness or critical injury, and
- Whether you want your pet cremated or buried upon its death.

Incentives for taking good care of your pet

You should also consider providing an annual stipend to the caregiver for as long as your pet lives. This is an added incentive for the guardian to take good care of your pet and ensure that it remains healthy.

It's also important to include a provision for how the funds remaining in the trust should be distributed after your pet dies. Because of the possibility of a conflict of interest, it's usually best to leave the remainder of the funds in the trust to a family member or a charity rather than to the pet's guardian.

What if I don't have a someone who is willing to act as guardian of my pet?

Before [appointing a guardian](#) for your pet, it's best to talk to each of the prospects. If no one will agree to act as the guardian, you should consider contacting a pet rescue organization that has a "no kill" policy and which is committed to finding good homes for pets. Your estate plan can [direct the trustee or executor](#) to deliver your pet to this organization if you become permanently incapacitated or after you die.

What if the money runs out before my pet dies?

The pet trust should include a provision addressing what should be done if your pet lives so long that the funds in the trust run out. It's hard to believe that the guardian might not have bonded with your pet and be willing to continue caring for it long after the trust funds run out. But if that's the case, the trust should direct the guardian to deliver your pet to a "no kill" animal rescue.

Getting legal help

Not all states recognize pet trusts; therefore, you should speak with an estate planning attorney in your state to find out whether they are permitted in your state. Additionally, a qualified [estate planning attorney](#) can explain the tax implications of a pet trust and assist you in setting up a trust that will ensure that your pet is cared for according to your wishes.

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Learn more



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