



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4137

Introduced 1/16/2004, by Terry R. Parke

SYNOPSIS AS INTRODUCED:

760 ILCS 5/15.2 new

Amends the Trusts and Trustees Act. Provides that a trust for the care of one or more designated domestic or pet animals is valid. Establishes rules regarding the administration and termination of these trusts. Provides that trust instruments shall be liberally construed to bring the transfer within the new provision and to carry out the intent of the transferor. Provides that these trusts are exempt from the operation of the common law rule against perpetuities.

LRB093 16393 LCB 42032 b

1 AN ACT concerning trusts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Trusts and Trustees Act is amended by
5 adding Section 15.2 as follows:

6 (760 ILCS 5/15.2 new)

7 Sec. 15.2. Trusts for domestic or pet animals.

8 (a) A trust for the care of one or more designated domestic
9 or pet animals is valid. The trust terminates when no living
10 animal is covered by the trust. A governing instrument shall be
11 liberally construed to bring the transfer within this Section,
12 to presume against a merely precatory or honorary nature of its
13 disposition, and to carry out the general intent of the
14 transferor. Extrinsic evidence is admissible in determining
15 the transferor's intent.

16 (b) A trust for the care of one or more designated domestic
17 or pet animals is subject to the following provisions:

18 (1) Except as expressly provided otherwise in the
19 instrument creating the trust, no portion of the principal
20 or income of the trust may be converted to the use of the
21 trustee or to a use other than for the trust's purposes or
22 for the benefit of a covered animal.

23 (2) Upon termination, the trustee shall transfer the
24 unexpended trust property in the following order:

25 (A) as directed in the trust instrument;

26 (B) if there is no such direction in the trust
27 instrument and if the trust was created in a
28 non-residuary clause in the transferor's will, then
29 under the residuary clause in the transferor's will; or

30 (C) if no taker is produced by the application of
31 subparagraph (A) or (B), then to the transferor's
32 heirs, determined according to Section 2-1 of the

1 Probate Act of 1975.

2 (3) The intended use of the principal or income may be
3 enforced by an individual designated for that purpose in
4 the trust instrument or, if none, by an individual
5 appointed by a court having jurisdiction of the matter and
6 parties, upon petition to it by an individual.

7 (4) Except as ordered by the court or required by the
8 trust instrument, no filing, report, registration,
9 periodic accounting, separate maintenance of funds,
10 appointment, or fee is required by reason of the existence
11 of the fiduciary relationship of the trustee.

12 (5) The court may reduce the amount of the property
13 transferred if it determines that the amount substantially
14 exceeds the amount required for the intended use. The
15 amount of the reduction, if any, passes as unexpended trust
16 property under paragraph (2).

17 (6) If a trustee is not designated or no designated
18 trustee is willing and able to serve, the court shall name
19 a trustee. The court may order the transfer of the property
20 to another trustee if the transfer is necessary to ensure
21 that the intended use is carried out, and if a successor
22 trustee is not designated in the trust instrument or if no
23 designated successor trustee agrees to serve and is able to
24 serve. The court may also make other orders and
25 determinations as are advisable to carry out the intent of
26 the transferor and the purpose of this Section.

27 (7) The trust is exempt from the operation of the
28 common law rule against perpetuities.