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HOUSE BILL 2046

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State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Haigh, Lantz, Sump, Reardon, Dunn and Barlean

Read first time 02/13/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to validating trusts created for the benefit of  
2 nonhuman animals; adding a new chapter to Title 11 RCW; providing an  
3 effective date; and providing contingent effective dates.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** The purpose of this chapter is to recognize  
6 and validate certain trusts that are established for the benefit of  
7 animals. Under the common law such trusts were unenforceable at law.  
8 The legislature intends that such trusts be recognized as valid, and  
9 that such trusts be enforceable in accordance with their terms.

10           NEW SECTION.    **Sec. 2.** As used in this chapter, "animal" means a  
11 nonhuman animal.

12           NEW SECTION.    **Sec. 3.** A trust for the care of one or more animals  
13 is valid. The animals that are to be benefited by the trust may be  
14 individually identified, or may be identified in such other manner that  
15 they can be readily identified. Unless otherwise provided in the trust  
16 instrument or in this chapter, the trust will terminate when no animal  
17 that is designated as a beneficiary of the trust remains living.

1        NEW SECTION.    **Sec. 4.**    Except as expressly provided otherwise in  
2 the trust instrument or in section 8 of this act, and except as may be  
3 necessary to pay the trustee reasonable compensation and to reimburse  
4 the trustee for reasonable costs incurred on behalf of the trust, no  
5 portion of the principal or income of the trust may be converted to the  
6 use of the trustee or to any use other than for the trust's purpose or  
7 for the benefit of the designated animal or animals.

8        NEW SECTION.    **Sec. 5.**    Upon termination of the trust, the trustee  
9 shall transfer the unexpended trust property in the following order:

10        (1) As directed in the instrument;

11        (2) If the trust was created in a nonresiduary clause in the  
12 trustor's will or in a codicil to the trustor's will and the will or  
13 codicil does not direct otherwise, under the residuary clause in the  
14 trustor's will, which shall be read as though the testator died on the  
15 date the trust terminated; and

16        (3) If no taker is produced by the application of subsection (1) or  
17 (2) of this section, to the trustor's heirs under RCW 11.04.015, as it  
18 exists at the time of the trust's termination.

19        NEW SECTION.    **Sec. 6.**    The intended use of the principal or income  
20 can be enforced by a person designated for that purpose in the trust  
21 instrument, by the person having custody of an animal that is a  
22 beneficiary of the trust, or by a person appointed by a court upon  
23 application to it by any person. A person with an interest in the  
24 welfare of the animal may petition for an order appointing or removing  
25 a person designated or appointed to enforce the trust.

26        NEW SECTION.    **Sec. 7.**    Except as ordered by the court or required  
27 by the trust instrument, no filing, report, registration, or periodic  
28 accounting shall be required of the trust or the trustee.

29        NEW SECTION.    **Sec. 8.**    If no trustee is designated or no designated  
30 trustee is willing or able to serve, the court shall name a trustee.  
31 The court may order the removal of an acting trustee and the transfer  
32 of the property to another trustee if it is necessary or appropriate in  
33 order to assure that the intended use is carried out. A court may also  
34 make such other orders and determinations as shall be advisable to  
35 carry out the intent of the trustor and the purpose of this chapter,

1 including the appointment of a guardian ad litem to represent the  
2 interests of the benefited animals.

3 NEW SECTION. **Sec. 9.** In construing the language of a trust for an  
4 animal, the governing instrument shall be liberally construed to  
5 provide the protections of this chapter. It is presumed that language  
6 contained in a trust for an animal is not merely precatory or honorary  
7 in nature unless it can be shown by clear and cogent evidence that such  
8 was the trustor's intent. Extrinsic evidence is admissible in  
9 determining the trustor's intent.

10 NEW SECTION. **Sec. 10.** RCW 11.98.130 through 11.98.160 apply to  
11 trusts that are subject to this chapter. If applicable, any reference  
12 in those statutes to a "life or lives in being or conceived at the  
13 effective date of the instrument" shall be construed to refer to any  
14 animal that is a beneficiary of the trust and that is in being or  
15 conceived at the effective date of the instrument.

16 NEW SECTION. **Sec. 11.** RCW 11.98.130 through 11.98.160 apply to  
17 trusts that are subject to this chapter.

18 NEW SECTION. **Sec. 12.** Except as otherwise provided in the trust  
19 instrument or in this chapter, all powers and duties conferred on a  
20 trustee under Washington law also apply to the trustee of a trust for  
21 animals.

22 NEW SECTION. **Sec. 13.** This chapter applies to trusts that are  
23 created on or after the effective date of this act and to trusts that  
24 are in existence on the effective date of this act, but that are  
25 revocable by the trustor on the effective date of this act. If a  
26 trustor is incompetent to exercise a power of revocation on the  
27 effective date of this act, this chapter does not apply to such trust  
28 unless the trustor later becomes competent to exercise such power of  
29 revocation, in which case this chapter applies to such trust.

30 NEW SECTION. **Sec. 14.** (1) Sections 1 through 9, 12, and 13 of  
31 this act take effect October 1, 2001.

1 (2) Section 10 of this act takes effect October 1, 2001, if Senate  
2 Bill No. 5054, or its legislative successor bearing the same bill  
3 number, does not take effect by October 1, 2001.

4 (3) Section 11 of this act takes effect October 1, 2001, if Senate  
5 Bill No. 5054, or its legislative successor bearing the same bill  
6 number, takes effect by October 1, 2001.

7 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act  
8 constitute a new chapter in Title 11 RCW.

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