

[First Reprint]

ASSEMBLY, No. 3860

STATE OF NEW JERSEY
216th LEGISLATURE

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Sponsored by:

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District 3 (Cumberland, Gloucester and Salem)

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SYNOPSIS

Clarifies provisions with regard to pet trusts.

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee on March 23, 2015, with amendments.



1 AN ACT concerning pet trusts and amending P.L.2001, c.144.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. Section 1 of P.L.2001, c.144 (C.3B:11-38) is amended to
7 read as follows:

8 1. a. **[A]** An ¹animal owner's¹ inter vivos or testamentary
9 trust for the care of ¹[a]¹ [domesticated] ¹the animal owner's¹
10 designated ¹[domesticated] domestic animal¹ or exotic ¹[pet]¹
11 animal is valid. The trust shall terminate upon the death of the
12 animal, or, if the trust was created to care for more than one animal,
13 upon the death of the last surviving animal ¹or the death of the last
14 surviving direct offspring of animals in gestation at the time the
15 trust is enacted¹ . The intended use of the principal or income may
16 be enforced by [a person] an individual designated for that purpose
17 in the trust instrument or, [a person] if none, by an individual
18 appointed by the court, upon application to it by an individual, or a
19 trustee. [The trust shall terminate when no living animal is covered
20 by the trust, or at the end of 21 years, whichever occurs earlier.]

21 b. Except as expressly provided otherwise in the trust
22 instrument, no portion of the trust's principal or income may be
23 converted to the use of the trustee or to any use other than for the
24 trust's purpose or the benefit of the animal designated in the trust.

25 c. Upon termination of the trust, the trustee shall transfer the
26 unexpended trust property as directed in the trust instrument. If no
27 directions for such transfer exist, the property shall pass to the
28 estate of the creator of the trust.

29 d. **[The court may reduce the amount of the property**
30 **transferred if it determines that the amount substantially exceeds the**
31 **amount required for the intended use. The amount of any reduction**
32 **shall be transferred as directed in the trust instrument or, if no such**
33 **directions are contained in the trust instrument, to the estate of the**
34 **creator of the trust]** The principal and income of the trust shall be
35 applied only to its intended use, except to the extent a court
36 determines that the value of the trust property substantially exceeds
37 the amount required for the intended use and there will be no
38 substantial adverse impact in the care of the animal. Unless
39 otherwise provided in the terms of the trust, property not required
40 for the intended use shall be distributed to the grantor, if then
41 living. If the grantor is deceased, such property shall be distributed
42 pursuant to the terms of the trust, or, if none stated, then pursuant to
43 the residuary clause of the grantor's will or pursuant to the
44 residuary provisions of the inter vivos trust; otherwise such

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAN committee amendments adopted March 23, 2015.

1 property shall be distributed to the grantor's heirs in accordance
2 with the then applicable law of descent and distribution.

3 e. If no trustee is designated or if no designated trustee is
4 willing or able to serve, a court shall appoint a trustee and may
5 make such other orders and determinations as are advisable to carry
6 out the intent of the creator of the trust and the purpose of this act.

7 ¹f. As used in this section:

8 "Domestic animal" means a domestic companion animal or
9 domestic livestock.

10 "Domestic companion animal" means any domesticated bird, cat,
11 dog, ferret, rabbit not raised as food or for its fur, reptile, or other
12 animal kept primarily as a household pet for personal appreciation
13 and companionship. "Domestic companion animal" shall not
14 include any animal being used for research purposes, domestic
15 livestock, or wildlife.

16 "Domestic livestock" means domestic livestock as defined
17 pursuant to subsection c. of section 1 of P.L.1995, c.311 (C.4:22-
18 16.1), including animals designated as agricultural livestock by the
19 Department of Agriculture and kept for that purpose.

20 "Exotic animal" means any nongame species or mammal, bird,
21 reptile, or amphibian not indigenous to New Jersey, and for which a
22 permit has been issued if required by the Department of
23 Environmental Protection.¹

24 (cf: P.L.2001, c.144, s.1)

25

26 2. This act shall take effect immediately.