



Probate Code § 15212 governs Pet Trusts.

SB 685 was chaptered on July 22, 2008, altering requiring the enforcement of pet trusts. Cal. Prob. Code § 15212 requires courts to liberally construe any animal trust or bequest to an animal to create a trust for the care of the animal for a lawful non-charitable purpose. The trust terminates when there is no animal living on the date of the settlor's death or when the animal itself dies. Extrinsic evidence may be used to determine settlor's intent.

Trustees. The trustee is prohibited from converting funds from the trust to any use not for the animal's benefit unless such use is expressly provided in the trust instrument. If the named trustee does not accept, the court will appoint a trustee and provide directions to ensure that the intent of the settlor is carried out.

Accounting. A formal filing, reporting, or registration for accounting may be waived if the trust funds are less than \$40,000. However, beneficiaries who are entitled to distribution of the funds upon the death of the animal or a nonprofit charitable organization that specializes in animal care may petition the court for an accounting of the funds. If the trust is \$40,000 or greater, the trustee must provide accounting in accordance with Prob. Code § 16062 to beneficiaries entitled to distribution upon the animal's death or by a nonprofit charitable organization specializing in animal care.

Enforcement. The terms of the trust may be enforced by any person named in the trust instrument who is designated to enforce the trust. That person may also request to inspect the animal and the animals living conditions and accounting of the funds. If no person is named, then any beneficiary or non-charitable organization may enforce the trust and request inspection of the animal and its habitat.

Distribution upon death of the animal. When the animal dies the remaining funds are distributed as directed in the trust instrument. If there are no directions, it is distributed in one of the following methods:

- (1) If the trust was created through a non-residuary clause in the decedent's will, then the funds will be distributed according to the residuary clause of the will. This creates a future interest in the trust.
- (2) If the trust does not direct how to distribute the remainder and the trust was created from a residuary clause in the decedent's will, then the property should be distributed to the settlor's heirs under Prob. Code § 2111.