

# HOUSE BILL 149

N2  
SB 235/06 – JPR

9lr0573

---

By: **Delegates Kach and Olszewski**  
Introduced and read first time: January 23, 2009  
Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Trust for Care of Animal**

3 FOR the purpose of establishing that the common-law rule against perpetuities does  
4 not apply to a certain trust created for the care of an animal alive during the  
5 lifetime of the settlor; authorizing the creation of a trust to provide for the care  
6 of an animal alive during the lifetime of the settlor; establishing when a certain  
7 trust terminates; authorizing a certain person to enforce a certain trust;  
8 authorizing a person having an interest in the welfare of an animal the care for  
9 which a trust is established to make certain requests to a court; establishing  
10 that the property of a certain trust may be applied only to the intended use of  
11 the trust, except to the extent the court may make a certain determination;  
12 requiring that property not required for the intended use of a certain trust be  
13 distributed in a certain manner; and generally relating to trusts for the care of  
14 animals.

15 BY repealing and reenacting, with amendments,  
16 Article – Estates and Trusts  
17 Section 11–102  
18 Annotated Code of Maryland  
19 (2001 Replacement Volume and 2008 Supplement)

20 BY adding to  
21 Article – Estates and Trusts  
22 Section 14–112  
23 Annotated Code of Maryland  
24 (2001 Replacement Volume and 2008 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article – Estates and Trusts**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 11-102.

2 (a) In this section, “usufructuary” means a person having a usufruct or right  
3 to enjoy a thing in which the person has no property interest.

4 (b) Subject to §§ 4-409 of this article and 11-103 of this subtitle, the  
5 common-law rule against perpetuities as now recognized in the State is preserved, but  
6 the rule does not apply to the following:

7 (1) A legacy or inter vivos conveyance having a value of \$5,000 or less,  
8 or of any burial lot of any value, in trust or otherwise, for the purpose of providing for  
9 the perpetual care or keeping in good order and condition, or making repairs to, any  
10 lot, vault, mausoleum, or other place of sepulture belonging to any individual or  
11 several individuals in any cemetery or graveyard, the lots in which are intended for  
12 the burial of members of the family, family connections, relatives, or friends of the  
13 owners, or their successors in ownership;

14 (2) A legacy or inter vivos conveyance intended to transfer assets from  
15 any corporation incorporated for charitable objects, to any other charitable corporation  
16 on a contingency or future event;

17 (3) A trust created by an employer as part of a pension, stock bonus,  
18 disability, death benefit, profit-sharing, retirement, welfare, or other plan for the  
19 exclusive benefit of some or all of the employees of the employer or their beneficiaries,  
20 to which contributions are made by the employer or employees, or both the employer  
21 and employees, for the purpose of making distributions to or for the benefit of  
22 employees or their beneficiaries out of the income or principal or both the income and  
23 principal of the trust, or for any other purposes set out in the plan;

24 (4) A trust for charitable purposes, which shall include all purposes as  
25 are within the spirit or letter of the statute of 43 Elizabeth Ch. 4 (1601), commonly  
26 known as the statute of charitable uses;

27 (5) A trust in which the governing instrument states that the rule  
28 against perpetuities does not apply to the trust and under which the trustee, or other  
29 person to whom the power is properly granted or delegated, has the power under the  
30 governing instrument, applicable statute, or common law to sell, lease, or mortgage  
31 property for any period of time beyond the period that is required for an interest  
32 created under the governing instrument to vest, so as to be good under the rule  
33 against perpetuities;

34 (6) An option of a tenant to renew a lease;

35 (7) An option of a tenant to purchase all or part of the premises leased  
36 by the tenant;

1 (8) An option of a usufructuary to extend the scope of an easement or  
2 profit;

3 (9) The right of a county, a municipality, a person from whom land is  
4 acquired, or the successor-in-interest of a person from whom land is acquired, to  
5 acquire land from the State in accordance with § 8-309 of the Transportation Article;

6 (10) A right or privilege, including an option, warrant, pre-emptive  
7 right, right of first refusal, right of first option, right of first negotiation, call right,  
8 exchange right, or conversion right, to acquire an interest in a domestic or foreign joint  
9 venture, partnership, limited liability partnership, limited partnership, limited  
10 liability limited partnership, corporation, cooperative, limited liability company,  
11 business trust, or similar enterprise, whether the interest is characterized as a joint  
12 venture interest, partnership interest, limited partnership interest, membership  
13 interest, security, stock, or otherwise; [or]

14 (11) A nondonative property interest as described in § 11-102.1 of this  
15 subtitle; **OR**

16 (12) **A TRUST CREATED UNDER § 14-112 OF THIS ARTICLE TO**  
17 **PROVIDE FOR THE CARE OF AN ANIMAL ALIVE DURING THE LIFETIME OF THE**  
18 **SETTLOR.**

19 **14-112.**

20 (A) **A TRUST MAY BE CREATED TO PROVIDE FOR THE CARE OF AN**  
21 **ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR.**

22 (B) **A TRUST AUTHORIZED BY THIS SECTION TERMINATES:**

23 (1) **IF CREATED TO PROVIDE FOR THE CARE OF ONE ANIMAL**  
24 **ALIVE DURING THE LIFETIME OF THE SETTLOR, ON THE DEATH OF THE ANIMAL;**  
25 **OR**

26 (2) **IF CREATED TO PROVIDE FOR THE CARE OF MORE THAN ONE**  
27 **ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR, ON THE DEATH OF THE**  
28 **LAST SURVIVING ANIMAL.**

29 (C) (1) **A TRUST AUTHORIZED BY THIS SECTION MAY BE ENFORCED**  
30 **BY A PERSON APPOINTED UNDER THE TERMS OF THE TRUST OR, IF NO PERSON**  
31 **IS APPOINTED, BY A PERSON APPOINTED BY THE COURT.**

32 (2) **A PERSON HAVING AN INTEREST IN THE WELFARE OF AN**  
33 **ANIMAL THE CARE FOR WHICH A TRUST IS ESTABLISHED MAY REQUEST THE**

1 COURT TO APPOINT A PERSON TO ENFORCE THE TRUST OR TO REMOVE A  
2 PERSON APPOINTED.

3 (D) (1) EXCEPT TO THE EXTENT THAT THE COURT MAY DETERMINE  
4 THAT THE VALUE OF A TRUST AUTHORIZED BY THIS SECTION EXCEEDS THE  
5 AMOUNT REQUIRED FOR THE USE INTENDED BY THE TRUST, THE PROPERTY OF  
6 THE TRUST MAY BE APPLIED ONLY TO THE INTENDED USE OF THE TRUST.

7 (2) EXCEPT AS OTHERWISE PROVIDED UNDER THE TERMS OF THE  
8 TRUST, PROPERTY NOT REQUIRED FOR THE INTENDED USE OF THE TRUST  
9 SHALL BE DISTRIBUTED:

10 (I) TO THE SETTLOR, IF LIVING; OR

11 (II) IF THE SETTLOR IS DECEASED, TO THE SUCCESSORS IN  
12 INTEREST OF THE SETTLOR.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2009.