

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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 24, 2009

CHAPTER _____

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; providing for the application of this Act; and
14 generally relating to trusts for the care of 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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Estates and Trusts**

4 11–102.

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

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

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

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

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

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

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

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

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

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

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

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

16 (11) A nondonative property interest as described in § 11–102.1 of this
17 subtitle; **OR**

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

21 **14–112.**

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

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

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

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

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

1 **(2) A PERSON HAVING AN INTEREST IN THE WELFARE OF AN**
2 **ANIMAL THE CARE FOR WHICH A TRUST IS ESTABLISHED MAY REQUEST THE**
3 **COURT TO APPOINT A PERSON TO ENFORCE THE TRUST OR TO REMOVE A**
4 **PERSON APPOINTED.**

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

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

12 **(I) TO THE SETTLOR, IF LIVING; OR**

13 **(II) IF THE SETTLOR IS DECEASED, TO THE SUCCESSORS IN**
14 **INTEREST OF THE SETTLOR.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
16 construed to apply only prospectively and may not be applied or interpreted to have
17 any effect on or application to a trust created before the effective date of this Act.

18 ~~SECTION 2.~~ SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.