

CHAPTER 132

(House Bill 149)

AN ACT concerning

Estates and Trusts – Trust for Care of Animal

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

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

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

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

Article – Estates and Trusts

11–102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14-112.

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

(B) A TRUST AUTHORIZED BY THIS SECTION TERMINATES:

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

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

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

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

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

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

(I) TO THE SETTLOR, IF LIVING; OR

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

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

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

Approved by the Governor, April 14, 2009.