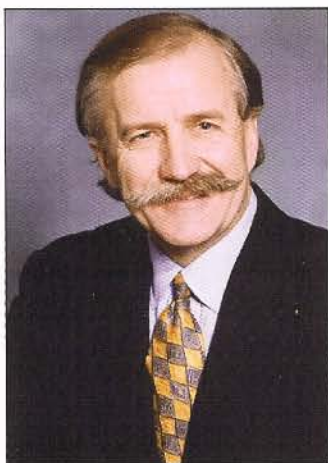


the animal trust



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IT USED TO BE WHEN A HORSE OWNER DIED HE LEFT HIS HORSES TO FAMILY MEMBERS or friends with the hope that the horses would be properly cared for after his death. But, since horses are considered to be personal property, there was no guarantee that would happen. The new owner generally had the right to do as he pleased with the horses, even sell them at auction. A fate generally not contemplated by the decedent.

Now however, 13 states have passed laws allowing trusts to be established with animals as beneficiaries. In other states, it is possible to set up an indirect trust for the benefit of the animal. A caretaker of the animal is named beneficiary, with distributions from the trust permitted only if the horse is properly cared for.

The use of these "pet trusts" are more appropriate for the owner with only one or two horses. Usually these horses are really pets or "part of the family" and not part of a business enterprise. Nevertheless, some owners in the horse business may want to provide for that one special horse.

Trusts can be funded with liquid assets, real property or personal property. The amount of the trust will depend on the age of the horse and level of care necessary to sustain the lifestyle "to which the horse is accustomed". Trusts can be funded with property used by the caretaker and the horse, such as a farm, barn, or even vehicles.

If your state doesn't have a "pet trust" statute, setting up a trust for your horse can be risky. Courts may invalidate them or hold them to be unenforceable for a variety of reasons. However if you live in one of the thirteen states that has adopted the Uniform Probate code, a trust for the care of a "domesticated or pet animal" is enforceable and can generally continue until the animal dies. There are some differences among the states however. In New Jersey the trust cannot last more than 21 years. Other states allow a trust to last until the death of the horse's foal in gestation at the time of the owners death. Most of the trusts are similar to trusts for minors, with the caretaker similar to the guardian.

If you live in one of the states that has not adopted the Uniform Probate Code, you can name a caretaker as the beneficiary of a trust and condition payment to the caretaker on proper care of the horse. These trusts can last for the lifetime of the caretaker plus 21 years, or can be terminated upon the death of the horse. Of course if the caretaker refuses or is unable to care for the horse, the trust may have to be terminated. In that case the trustee should be instructed to find an alternative caretaker or simply leave the horse to a person who will care for the horse, along with some money.

Another alternative is to simply leave your horse as gift, along with some money, on condition that the beneficiary takes good care of your horse. As practical matter this would be difficult to enforce. But, if the beneficiary is a trustworthy institution, such as a veterinary school or well respected horse farm that accepts retired and lame horses for long term care, your bequest is more likely to be honored. Unfortunately, these institutions typically charge a lot of money for the quality care they render. Consequently, they may not accept the gift unless the amount of money is substantial.

So, if you are of sound mind, you can take care of your horse even after you are gone.

THE 13 STATES WITH PET TRUST LAWS: Alaska, Arizona, Colorado, Florida, Iowa, Michigan, Montana, New Mexico, New Jersey, New York, North Carolina, Oregon, Utah.

In addition, California, Missouri and Tennessee allow pet trusts, but do not provide for enforcement if the trustee does not carry out the trust.

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