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Planning for Pets

Each year, billions of dollars are spent on pet care. In fact, according to some studies, pets live in more than 60 percent of American households. Little wonder, then, that more and more Americans proactively seek methods of protecting their dogs, cats, birds, and other pets should they (their humans) become incapacitated or die.

Today, especially among the elderly and disabled who either have no family or are not particularly close to their family, pets have become the most trusted source of companionship, trust, and affection. For this reason, many seniors want to leave funds at death (or in the event of incapacitation) to ensure that their pets will be cared for. (It is estimated that about 25 percent of pet owners provide for pet care in their wills, even though pets can't inherit property directly.)

The late real estate/hotel magnate Leona Helmsley is a case in point. While the size of the multimillion dollar trust she set up for her dog is certainly the exception, pet trusts are now available, via legislation, in many states. In fact, the Uniform Trust Act of 2000, adopted in a number of states, allows trusts for pet care and even permits judges to appoint guardians to enforce the terms of the trust. The basic requirements are that the animal be alive during the life of the creator of the trust; the court can appoint a person

to enforce the trust; a person interested in the welfare of the animal can request that the court remove the caregiver; and, remaining assets go to the creator's chosen beneficiary or heirs at the death of the pet.

Still, the question that haunts many seniors is: How can I make sure, if I die or become disabled, that my pets are taken care of? Some elders mistakenly believe that family members and/or friends will take care of their pets, even though the seniors haven't put anything in writing. The devotion of substitute caregivers often is not there, and it takes time and money to properly care for a pet.

Moreover, even if the right person is found, other questions arise. Who will keep the pet and where? Will the pet be difficult to keep after the senior dies because of behavioral problems? Who will make sure the pet is fed, given medical attention, and kept groomed? How much money will it take to maintain the pet until it dies, and if there is any money left, who or what will receive it?

Some seniors decide to put their wishes for their pets into their wills. But because your will could be held up in probate for a time, or could be subject to challenges, we believe the safest method for protecting your pets is to create a trust now, and either fund it now (if you have the funds) or figure out how to fund it based on the occurrence of an event, such as your incapacity or death.

By creating a stand-alone trust now, you can avoid probate, protect your pet if you become disabled, and make sure your pet has immediate care.

Setting Up a Trust for Your Pet

First of all, never leave important decisions like setting up a trust for your animal to verbal arrangements and promises. To make sure that your wishes are carried out, use formal documents. The last