VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 666

An Act to amend and reenact § 55-544.08 of the Code of Virginia, relating to the creation of a pet trust.

[H 906]

Approved April 5, 2006

Be it enacted by the General Assembly of Virginia:

1. That § 55-544.08 of the Code of Virginia is amended and reenacted as follows:

§ 55-544.08. (Effective July 1, 2006) Trust for care of animal.

A. A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal. *Funds from the trust may be applied to any outstanding expenses of the trust and for burial or other postdeath expenditures for animal beneficiaries as provided for in the instrument creating the trust.*

B. The instrument creating the trust shall be liberally construed to bring the transfer within the scope of trusts governed by this section, to presume against the merely precatory or honorary nature of the disposition, and to carry out the general intent of the transferor. Extrinsic evidence is admissible in determining the transferor's intent.

~~B~~ *C.* A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed. *The appointed person shall have the rights of a trust beneficiary for the purpose of enforcing the trust, including receiving accountings, notices, and other information from the trustee and providing consents. Reasonable compensation for a person appointed by the court may be paid from the assets of the trust.*

D. Except as ordered by a court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or surety bond shall be required by reason of the existence of the fiduciary relationship of the trustee.

~~C~~ *E.* Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use shall be distributed to the settlor, if then living~~, otherwise~~. *If the settlor is deceased, such property shall be distributed pursuant to the residuary clause of the settlor's will if the trust for the animal was created in a preresiduary clause in the will or pursuant to the residuary provisions of the inter vivos trust if the trust for the animal was created in a preresiduary clause in the trust instrument; otherwise, such property shall be distributed* to the settlor's successors in interest.