

2 SHB 2046 - S COMM AMD
3 By Committee on Judiciary

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5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The purpose of this chapter is to recognize
8 and validate certain trusts that are established for the benefit of
9 animals. Under the common law such trusts were unenforceable at law.
10 The legislature intends that such trusts be recognized as valid, and
11 that such trusts be enforceable in accordance with their terms.

12 NEW SECTION. **Sec. 2.** As used in this chapter, "animal" means a
13 nonhuman animal with vertebrae.

14 NEW SECTION. **Sec. 3.** A trust for the care of one or more animals
15 is valid. The animals that are to be benefited by the trust may be
16 individually identified, or may be identified in such other manner that
17 they can be readily identified. Unless otherwise provided in the trust
18 instrument or in this chapter, the trust will terminate when no animal
19 that is designated as a beneficiary of the trust remains living.

20 NEW SECTION. **Sec. 4.** Except as expressly provided otherwise in
21 the trust instrument or in section 8 of this act, and except as may be
22 necessary to pay the trustee reasonable compensation and to reimburse
23 the trustee for reasonable costs incurred on behalf of the trust, no
24 portion of the principal or income of the trust may be converted to the
25 use of the trustee or to any use other than for the trust's purpose or
26 for the benefit of the designated animal or animals.

27 NEW SECTION. **Sec. 5.** Upon termination of the trust, the trustee
28 shall transfer the unexpended trust property in the following order:

- 29 (1) As directed in the instrument;
30 (2) If the trust was created in a nonresiduary clause in the
31 trustor's will or in a codicil to the trustor's will and the will or
32 codicil does not direct otherwise, under the residuary clause in the

1 trustor's will, which shall be read as though the testator died on the
2 date the trust terminated; and

3 (3) If no taker is produced by the application of subsection (1) or
4 (2) of this section, to the trustor's heirs under RCW 11.04.015, as it
5 exists at the time of the trust's termination.

6 NEW SECTION. **Sec. 6.** The intended use of the principal or income
7 can be enforced by a person designated for that purpose in the trust
8 instrument, by the person having custody of an animal that is a
9 beneficiary of the trust, or by a person appointed by a court upon
10 application to it by any person. A person with an interest in the
11 welfare of the animal may petition for an order appointing or removing
12 a person designated or appointed to enforce the trust.

13 NEW SECTION. **Sec. 7.** Except as ordered by the court or required
14 by the trust instrument, no filing, report, registration, or periodic
15 accounting shall be required of the trust or the trustee.

16 NEW SECTION. **Sec. 8.** If no trustee is designated or no designated
17 trustee is willing or able to serve, the court shall name a trustee.
18 The court may order the removal of an acting trustee and the transfer
19 of the property to another trustee if it is necessary or appropriate in
20 order to assure that the intended use is carried out. A court may also
21 make such other orders and determinations as shall be advisable to
22 carry out the intent of the trustor and the purpose of this chapter.

23 NEW SECTION. **Sec. 9.** In construing the language of a trust for an
24 animal, the governing instrument shall be liberally construed to
25 provide the protections of this chapter. It is presumed that language
26 contained in a trust for an animal is not merely precatory or honorary
27 in nature unless it can be shown by clear and cogent evidence that such
28 was the trustor's intent. Extrinsic evidence is admissible in
29 determining the trustor's intent.

30 NEW SECTION. **Sec. 10.** RCW 11.98.130 through 11.98.160 apply to
31 trusts that are subject to this chapter. If applicable, any reference
32 in those statutes to a "life or lives in being or conceived at the
33 effective date of the instrument" shall be construed to refer to any

1 animal that is a beneficiary of the trust and that is in being or
2 conceived at the effective date of the instrument.

3 NEW SECTION. **Sec. 11.** RCW 11.98.130 through 11.98.160 apply to
4 trusts that are subject to this chapter.

5 NEW SECTION. **Sec. 12.** Except as otherwise provided in the trust
6 instrument or in this chapter, all powers and duties conferred on a
7 trustee under Washington law also apply to the trustee of a trust for
8 animals.

9 NEW SECTION. **Sec. 13.** This chapter applies to trusts that are
10 created on or after the effective date of this act and to trusts that
11 are in existence on the effective date of this act, but that are
12 revocable by the trustor on the effective date of this act. If a
13 trustor is incompetent to exercise a power of revocation on the
14 effective date of this act, this chapter does not apply to such trust
15 unless the trustor later becomes competent to exercise such power of
16 revocation, in which case this chapter applies to such trust.

17 NEW SECTION. **Sec. 14.** (1) Sections 1 through 9, 12, and 13 of
18 this act take effect October 1, 2001.

19 (2) Section 10 of this act takes effect October 1, 2001, if Senate
20 Bill No. 5054, or its legislative successor bearing the same bill
21 number, does not take effect by October 1, 2001.

22 (3) Section 11 of this act takes effect October 1, 2001, if Senate
23 Bill No. 5054, or its legislative successor bearing the same bill
24 number, takes effect by October 1, 2001.

25 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
26 constitute a new chapter in Title 11 RCW."

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30 On page 1, line 2 of the title, after "animals;" strike the
31 remainder of the title and insert "adding a new chapter to Title 11

1 RCW; providing an effective date; and providing contingent effective
2 dates."

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