

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2046

Chapter 327, Laws of 2001

(partial veto)

57th Legislature
2001 Regular Legislative Session

TRUSTS--ANIMALS

EFFECTIVE DATE: 7/22/01

Passed by the House April 22, 2001
Yeas 80 Nays 3

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 5, 2001
Yeas 36 Nays 12

BRAD OWEN
President of the Senate

Approved May 15, 2001, with the
exception of sections 10 and 14, which
are vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2046** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 15, 2001 - 2:51 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2046

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Haigh, Lantz, Sump, Reardon, Dunn and Barlean)

Read first time . Referred to Committee on .

1 AN ACT Relating to validating trusts created for the benefit of
2 nonhuman animals; adding a new chapter to Title 11 RCW; providing an
3 effective date; and providing contingent effective dates.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

10 (1) As directed in the instrument;

11 (2) If the trust was created in a nonresiduary clause in the
12 trustor's will or in a codicil to the trustor's will and the will or
13 codicil does not direct otherwise, under the residuary clause in the
14 trustor's will, which shall be read as though the testator died on the
15 date the trust terminated; and

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

19 NEW SECTION. **Sec. 6.** The intended use of the principal or income
20 can be enforced by a person designated for that purpose in the trust
21 instrument, by the person having custody of an animal that is a
22 beneficiary of the trust, or by a person appointed by a court upon
23 application to it by any person. A person with an interest in the
24 welfare of the animal may petition for an order appointing or removing
25 a person designated or appointed to enforce the trust.

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

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

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

8 **NEW SECTION. Sec. 10. RCW 11.98.130 through 11.98.160 apply to*
9 *trusts that are subject to this chapter. If applicable, any reference*
10 *in those statutes to a "life or lives in being or conceived at the*
11 *effective date of the instrument" shall be construed to refer to any*
12 *animal that is a beneficiary of the trust and that is in being or*
13 *conceived at the effective date of the instrument.*

14 **Sec. 10 was vetoed. See message at end of chapter.*

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

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

21 NEW SECTION. **Sec. 13.** This chapter applies to trusts that are
22 created on or after the effective date of this act and to trusts that
23 are in existence on the effective date of this act, but that are
24 revocable by the trustor on the effective date of this act. If a
25 trustor is incompetent to exercise a power of revocation on the
26 effective date of this act, this chapter does not apply to such trust
27 unless the trustor later becomes competent to exercise such power of
28 revocation, in which case this chapter applies to such trust.

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

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

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

4 *Sec. 14 was vetoed. See message at end of chapter.

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

 Passed the House April 22, 2001.

 Passed the Senate April 5, 2001.

 Approved by the Governor May 15, 2001, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State May 15, 2001.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 10 and
3 14, Substitute House Bill No. 2046 entitled:

4 "AN ACT Relating to validating trusts created for the benefit of
5 nonhuman animals;"

6 Substitute House Bill No. 2046 will allow trusts created for the
7 benefit of vertebrate animals to be legally recognized and enforceable.
8 This change in the law will allow people to ensure that their pets will
9 be cared for after their owner's death.

10 Sections 10 and 14 of the bill were intended to address
11 contingencies that could be caused by the rule against perpetuities.
12 However, those issues were resolved with Senate Bill No. 5054, which I
13 signed on April 18, 2001.

14 For these reasons, I have vetoed sections 10 and 14 of Substitute
15 House Bill No. 2046.

16 With the exception of sections 10 and 14, Substitute House Bill No.
17 2046 is approved."