

THE HOUSE OF REPRESENTATIVES  
Thursday, February 26, 2009

Committee Substitute for  
House Bill No. 1641

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1641 - By: INMAN, KIESEL AND SHUMATE of the House.

An Act relating to trusts; providing for the validity of a certain trust; providing for liberal construction of certain trust; providing for admissibility of evidence to prove intent of transferor; providing for court appointment of trustee in certain circumstance; providing for payment of certain fees and expenses; requiring certain care of animal; allowing employment of certain individuals; providing for enforcement of trust; requiring accounting; providing exception; providing for transfer of certain unexpended trust property; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1           SECTION 1.   NEW LAW   A new section of law to be codified in the Oklahoma  
2 Statutes as Section 199 of Title 60, unless there is created a duplication in numbering,  
3 reads as follows:

4           A. A trust for the care of designated domestic or pet animals is valid. Unless the  
5 trust instrument provides for an earlier termination, the trust terminates when no living  
6 animal is covered by the trust.

7           B. The instrument creating the trust shall be liberally construed to bring the  
8 transfer within the scope of trusts governed by this section, to presume against the mere

1 precatory or honorary nature of the disposition, and to carry out the general intent of the  
2 transferor. Extrinsic evidence is admissible in determining the intent of the transferor.

3 C. If a trustee is not designated or no designated or successor trustee is willing or  
4 able to serve, a court shall name a trustee. Unless otherwise permitted by the trust, the  
5 trustee and the enforcer as provided in subsection D of this section shall not be the same  
6 person. The trustee shall be entitled to reasonable trustee fees and expenses for the  
7 administration, unless otherwise provided in the trust instrument. The trustee of a trust  
8 created in accordance with this section shall ensure that care is provided for the benefit  
9 of the animal in accordance with the terms of the trust or, in absence of any terms, shall  
10 ensure that care is provided that is reasonable under the circumstances. The trustee  
11 may employ agents or contractors to provide any care and pay for the care from the  
12 assets of the trust. The trustee shall also ensure that the property of a trust authorized  
13 by this section is applied only to its intended use.

14 D. A trust authorized by this section may be enforced by a person appointed in the  
15 trust instrument, the caretaker of the designated animal or animals, and the remainder  
16 beneficiary, or, if none, by an individual appointed by a court upon application to it by an  
17 individual.

18 E. Accountings otherwise required by law shall be provided to those persons  
19 qualified as an enforcer as provided for in subsection D of this section. However, if the  
20 value of the assets in the trust does not exceed Twenty Thousand Dollars (\$20,000.00), no  
21 filing, report, registration, periodic accounting, separate maintenance of funds,  
22 appointment, or fee shall be required by reason of the existence of the fiduciary

1 relationship of the trustee, unless ordered by the court or required by the trust  
2 instrument.

3 F. Except as otherwise provided in the terms of the trust instrument, the trustee  
4 shall transfer the unexpended trust property upon termination of the trust to the  
5 transferor if then living, or, if not living, to the estate of the transferor.

6 SECTION 2. This act shall become effective November 1, 2009.

7 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
8 FINANCIAL SERVICES, dated 02-25-09 - DO PASS, As Amended and Coauthored.