

EHB 1641

1 THE STATE SENATE
2 Wednesday, March 31, 2010

3 ENGROSSED

4 House Bill No. 1641

5 ENGROSSED HOUSE BILL NO. 1641 - By: Inman, Kiesel and Shumate of the
6 House and Ivester of the Senate.

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

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

19 SECTION 1641. NEW LAW A new section of law to be
20 codified in the Oklahoma Statutes as Section 199 of Title 60, unless
21 there is created a duplication in numbering, reads as follows:

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

26 B. The instrument creating the trust shall be liberally
27 construed to bring the transfer within the scope of trusts governed
28 by this section, to presume against the mere precatory or honorary
29 nature of the disposition, and to carry out the general intent of

1 the transferor. Extrinsic evidence is admissible in determining the
2 intent of the transferor.

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

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

1 E. Accountings otherwise required by law shall be provided to
2 those persons qualified as an enforcer as provided for in subsection
3 D of this section. However, if the value of the assets in the trust
4 does not exceed Twenty Thousand Dollars (\$20,000.00), no filing,
5 report, registration, periodic accounting, separate maintenance of
6 funds, appointment, or fee shall be required by reason of the
7 existence of the fiduciary relationship of the trustee, unless
8 ordered by the court or required by the trust instrument.

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

13 SECTION 1. This act shall become effective November 1, 2009.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-30-10 - DO
15 PASS.