

Uniform Probate Code § 2-907

§ 2-907. Honorary Trusts; Trusts for Pets.

(a) [Honorary Trust.] Subject to subsection (c), if (i) a trust is for a specific lawful noncharitable purpose or for lawful noncharitable purposes to be selected by the trustee and (ii) there is no definite or definitely ascertainable beneficiary designated, the trust may be performed by the trustee for [21] years but no longer, whether or not the terms of the trust contemplate a longer duration.

(b) [Trust for Pets.] Subject to this subsection and subsection (c), a trust for the care of a designated domestic or pet animal is valid. The trust terminates when no living animal is covered by the trust. A governing instrument must be liberally construed to bring the transfer within this subsection, 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.

(c) [Additional Provisions Applicable to Honorary Trusts and Trusts for Pets.] In addition to the provisions of subsection (a) or (b), a trust covered by either of those subsections is subject to the following provisions:

(1) Except as expressly provided otherwise in the trust instrument, no portion of the principal or income may be converted to the use of the trustee or to any use other than for the trust's purposes or for the benefit of a covered animal.

(2) Upon termination, the trustee shall transfer the unexpended trust property in the following order:

(i) as directed in the trust instrument;

(ii) if the trust was created in a nonresiduary clause in the transferor's will or in a codicil to the transferor's will, under the residuary clause in the transferor's will; and

(iii) if no taker is produced by the application of subparagraph (i) or (ii), to the transferor's heirs under Section 2-711.

(3) For the purposes of Section 2-707, the residuary clause is treated as creating a future interest under the terms of a trust.

(4) The intended use of the principal or income can be enforced by an individual designated for that purpose in the trust instrument or, if none, by an individual appointed by a court upon application to it by an individual.

(5) Except as ordered by the court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee is required by reason of the existence of the fiduciary relationship of the trustee.

(6) A court may reduce the amount of the property transferred, if it determines that that amount substantially exceeds the amount required for the intended use. The amount of the reduction, if any, passes as unexpended trust property under subsection (c)(2).

(7) If no trustee is designated or no designated trustee is willing or able to serve, a court shall name a trustee. A court may order the transfer of the property to another trustee, if required to assure that the intended use is carried out and if no successor trustee is designated in the trust instrument or if no designated successor trustee agrees to serve or is able to serve. A court may also make such other orders and determinations as shall be advisable to carry out the intent of the transferor and the purpose of this section.]

As amended in 1993.

COMMENT

1997 Main Volume

Subsection (a) of this section authorizes so-called honorary trusts and places a 21-year limit on their duration. The figure "21" is bracketed to indicate that an enacting state may select a different figure.

Subsection (b) provides more elaborate provisions for a particular type of honorary trust, the trust for the care of domestic or pet animals. Under subsection (b), a trust for the care of a designated domestic or pet animal is valid.

Subsection (b) meets a concern of many pet owners by providing them a means for leaving funds to be used for the pet's care.

Historical Note. This Comment was revised in 1993. For the prior version, see 8 U.L.A. 180 (Supp.1992).

AMENDMENTS

1997 Main Volume

The 1993 amendment rewrote this section, which prior thereto read:

"(a) [Honorary Trust.] A trust for a noncharitable corporation or unincorporated society or for a lawful noncharitable purpose may be performed by the trustee for [21] years but no longer, whether or not there is a beneficiary who can seek the trust's enforcement or termination and whether or not the terms of the trust contemplate a longer duration.

"(b) [Trust for Pets.] Subject to this subsection, a trust for the care of a designated domestic or pet animal and the animal's offspring is valid. Except as expressly provided otherwise in the trust instrument:

"(1) No portion of the principal or income may be converted to the use of the trustee or to any use other than for the benefit of a covered animal.

"(2) The trust terminates at the earlier of [21] years after the trust was created or when no living animal is covered by the trust.

"(3) Upon termination, the trustee shall transfer the unexpended trust property in the following order:

"(i) as directed in the trust instrument;

"(ii) if the trust was created in a nonresiduary clause in the transferor's will or in a codicil to the transferor's will, under the residuary clause in the transferor's will; and

"(iii) if no taker is produced by the application of subparagraph (i) or (ii), to the transferor's heirs under Section 2-711.

"(4) For the purposes of Section 2-707, the residuary clause is treated as creating a future interest under the terms of a trust.

"(5) The intended use of the principal or income can be enforced by an individual designated for that purpose in the trust instrument or, if none, by an individual appointed by a court upon application to it by an individual.

"(6) Except as ordered by the court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee is required by reason of the existence of the fiduciary relationship of the trustee.

"(7) A governing instrument must be liberally construed to bring the transfer within 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.

"(8) A court may reduce the amount of the property transferred, if it determines that that amount substantially exceeds the amount required for the intended use. The amount of the reduction, if any, passes as unexpended trust property under subsection (b)(3).

"(9) If no trustee is designated or no designated trustee is willing or able to serve, a court shall name a trustee. A court may order the transfer of the property to another trustee, if required to assure that the intended use is carried out and if no successor trustee is designated in the trust instrument or if no designated successor trustee agrees to serve or is able to serve. A court may also make such other orders and determinations as shall be advisable to carry out the intent of the transferor and the purpose of this section."