

Chicagoland

Tails

 pet magazine
 

celebrating the relationship between pets and their people



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Trust in Me

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When Marlo Lebedda, an assistant vice president and trust officer for Key Private Bank in Columbus, Ohio, traveled to Europe a few years ago, she was faced with a dilemma she had never considered before: What would become of her beloved Boxer Maya, whom she had recently adopted from an animal rescue, if something happened during her travels?

It was then that Lebedda began learning about pet trusts, a method of planning for one's pet should the caretaker predecease the animal.

"Establishing a pet trust gives a [guardian] peace of mind," she says.

Lindsey Paige Markus, an attorney who specializes in estate planning and asset protection with the Chicago-based law firm of Chuhak & Tecson, P.C. agrees. "Too often, clients take their health for granted and assume they will survive their pets. Pet [guardians] assume that an oral commitment made by family or friends to care for their pets will be honored."

Unfortunately, a person cannot leave any part of his estate outright to his pets, but may do so through a pet trust. According to Patricia Kauffman, manager of both Providing for Your Pet's Future Without You and the Human Legacy at the Humane Society of the United States in Washington, D.C., 35 states across the country have enacted pet-trust laws. Several other states have similar laws pending.

Pet trusts are important because they explicitly detail important matters relating to the pet's future such as where and with whom the pet will live and how he should be cared for in the event that a person dies before her animal. At Markus' first meeting with her clients Brad and Jolie Friedman, the couple's primary concerns were for the care and support of their children: their two boys and their "eldest," Payton (a Portuguese Water Dog). "We quickly realized that in order to ensure our wishes are fulfilled, we needed to make formal arrangements for Payton in the same fashion as we would for our sons," Friedman says. "[Markus] helped us to prepare the appropriate estate plan to best suit our needs, which included caring for Payton."

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Connie Page, an animal lover and vice president at Key Private Bank, agrees that pet trusts are far more binding than stating wishes in a will. "A will only takes effect when you die. Wills can also be probated for months or years, which can put pets in great hardship. They also don't help if the [pet's caretaker] becomes disabled or incapacitated," she says.

Both Kauffman and Lebedda agree that people interested in creating a pet trust should seek the advice of an attorney who's knowledgeable in animal law. Lebedda says it's also important the pet trust bear a name that explicitly describes the document. For example, she says, if she created a pet trust for Maya, she would title the document, "The Marlo Lebedda Living Trust for the Benefit of Maya, My Dog."

Who cares?

Lebedda advises a settlor, the person creating the trust, to choose his animal's caregivers wisely. It's also a good idea to name an alternate caregiver, just in case the first person named is unable or unwilling to take care of the animal. The settlor also names a trustee, a person who administers the financial and legal aspects of the trust, and a successor trustee.

"[It's important to] name two different people as caregiver and trustee," Lebedda says. That way, the settlor isn't relying too much on one person, and the person caring for the animal must get approval for financial expenditures on behalf of the pet from the trustee. This also helps to ensure that all parties comply with the trust's provisions.

Adequate funding

Deciding how much money to put into a pet trust can be daunting, Kauffman says. "You have to figure in food costs and veterinary and medical care based on the age of your pet."

But you also don't want to over fund. According to Markus, if a person transfers an unreasonably large amount of money or property to the pet trust, that type of gift may encourage heirs and remainder beneficiaries of the guardian's estate to contest the arrangement. "In some instances, if the trust is funded with an unreasonable amount of property, the court may reduce the amount of the trust to what it would consider to be 'reasonable,'" she says.

While it would be an acceptable business practice for a caregiver to be paid by a trust for his services, Lebedda says she thinks that since animals are involved, most caregivers wouldn't take a fee for caring for a beloved pet. "Hopefully the trust's assets will be invested well enough to pay the expenses [associated with a trust]," she says. Still, these are important considerations when deciding how to fund a trust.

Living in a trustless land

Not every state has pet trust laws, but all is not lost. "[People with pets] can still create pet trusts there but they won't be enforceable by a court of law," says Lebedda.

She also suggests that animal-rights advocates in those states contact their legislators and governor, demanding for the creation of such legislation.

A great resource for anyone interested in pet trusts is the Humane Society's website at www.HSUS.org, she says.

Give a dog a bone

Animal lovers wishing to bequest money or other assets to animal shelters, rescues or other animal-related charities after they die can do so in their last

will and testament. While this is a different concern than creating a pet trust, it's wise to contact an attorney to discuss the matter thoroughly. Hiring an estate-planning lawyer familiar with your state's probate and inheritance laws will ensure your last will and testament clearly states your final wishes, even if that means you want your cremated ashes buried next to Fido's favorite bone.

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