

## Setting up Fido for life after (your) death

By [Barry A. Densa](#) • Bankrate.com

We love to pamper our pets. From doggy bags and designer duds to pet psychologists and psychics, Americans take seriously the welfare and comforts of their furred and feathered friends. In fact, we spend over \$6 billion annually just at the vet.

The latest entry in the "I love you so much that ..." gesture: Pet owners can bequeath, legally and with due process, their worldly estates to Fido, Whiskers or Tweety.

Pet trusts have arrived!

### **More than a friend**

"For many individuals, their pets are their only family," says Keith B. Braun, of Kochman and Braun PLC, trust and estate attorneys in West Palm Beach, Fla. "They have no children and view their pets as their surviving dependents.

"Others are estranged from their children and wish to ensure that their pets, who have given them love and loyalty, are taken care of."

Pet trust accounts provide the opportunity to do just that.

### **Not recognized nationally, yet**

This eccentric, benevolent phenomenon is growing in popularity. Seventeen states have enacted full or partial consideration to the legality of pet trusts. California and Tennessee, for example, permit pet trusts but will not enforce them. Alaska and New York permit and enforce trusts. Florida will do both beginning in January 2003.

The primary stumbling block to the legal viability of pet trusts resides in what is commonly known as "the rule against perpetuity." The rule forbids trusts that last forever. Typically, states require trust money to be paid out within 21 years after the death of the trust's last living beneficiary. The rules were enacted to limit the abilities of the wealthy from becoming perpetual financial royalty.

The other legal obstacle to pet trusts is that an animal, a bird, a fish, a reptile -- a pet -- is not a person according to the law, regardless of how human-like dear, cute, big-brown-eyed Fluffy may act at times.

The U.S. tax code states that a beneficiary must be a person -- and a person according to the IRS can only be an individual (obviously human), a trust, estate, partnership, association, company or corporation -- and nothing else.

Many states though are changing their rules against perpetuities; either doing away with them or making pet trusts an exception.

To find out whether your state allows pet trusts to be established and enforced, contact your [state's attorney general](#) or the local chapter of the Humane Society of the United States.

### Pets born with a silver collar

Common folks aren't the only ones leaving estates for their family pets.

Tobacco heiress Doris Duke left \$100,000 in trust for her dog.

Actress Betty White, who played Rose on TV's "Golden Girls," is leaving her estimated \$5 million estate to her animals.

And British singer Dusty Springfield, who scored on the pop charts here and abroad with such hits as "You Don't Have to Say You Love Me" and "Wishin' and Hopin'," stipulated that her cat Nicolas is to listen to her recordings each night at bedtime, to have his sleeping area lined with Dusty's nightgown and is to be fed only imported baby food.

### The cost of setting up Fido for life

Setting up a pet trust can cost from \$2,000 to \$10,000, depending on how intricate it is and whether it's drawn up in Palm Beach, Beverly Hills or Sheboygan.

In the past, "honorary" pet trusts were established, but they lacked legal teeth and could not be enforced.

An honorary pet trust might read something like this: "I, Mrs. Pet Owner, being of sound mind, hereby appoint my dear friend, neighbor and companion, Mr. Trustworthy, to be trustee of my dear dog Fido's \$250,000 trust fund, so as to feed, care, succor and love dear Fido in a manner in which dear Fido has been accustomed."

Well, if this Mr. Trustworthy comes home from Mrs. Pet Owner's funeral and proceeds to starve the mangy pooch to death and bury him in the basement, other than the court going after him for cruelty to animals, he could not be prosecuted for breach of trust.

### Still some wiggle room

Even in states where pet trusts are now legal and enforceable, problems still arise.

Let's say the pet trust is constructed to allow Finicky Fifi to live out her life in luxury. But after

By the numbers ... pets and their masters	
<b>\$5.8 billion</b>	annual amount dog owners spend at the veterinarian
<b>\$3 billion</b>	annual amount cat owners spend at the vet
<b>\$50 million</b>	annual amount bird owners spend at the vet
<b>\$100</b>	average amount pet owners spent on holiday pet gifts
<b>33.9 million</b>	homes with a dog
<b>28.3 million</b>	homes with cats
<b>11 million</b>	homes with a fish
<b>6 million</b>	homes with a bird
<b>79%</b>	of pet owners whose pet sleeps with them
<b>37%</b>	of pet owners who carry pictures of their pets in their wallet
<b>31%</b>	of pet owners who have taken off work to be with ailing pets
<b>20%</b>	of pet owners who admit breaking up a romance over a pet dispute

she joins her master in the great-pet-playground-beyond, the remaining money in the trust is to be given to the trustee, Mr. Honestas Dayislong. Well, who's to say that ol' Honestas didn't quicken the demise of Fifi by poisoning her, so as to take all the money sooner rather than later?

Conversely, if the remaining principal in Fifi's trust is to pass to a third party after Fifi's demise, what is to prevent the trustee from keeping Fifi "alive" forever? It's the old Lassie ploy -- didn't those collies all look alike?

And even if a trust is written properly, with all contingencies covered, the courts may nonetheless choose to intercede, if the courts decide the trust is unduly large.

### **Asset allocation for Fifi**

Another question begs to be answered: Can a pet's trust fund be prematurely depleted, leaving him to live on generic milk bones for the rest of his life?

Securing one's own retirement is not much different than providing for a pet's future health and comfort.

Money in a pet trust needs to last, so Fido's trust may well need an investment portfolio with appropriate asset allocation, providing diversity within the various investment classes and styles. A large-cap growth and value mutual fund, and maybe some mid-caps and small-caps, too, would be a wise choice. One should not forget the fixed-income component of Fido's investment portfolio, either.

There's another choice, however: You may simply set aside enough money to provide for Kitty's prepaid care.

The [California Cat Center Inc.'s Life Care Program](#), for example, will reserve a space for Kitty. There's a \$500 nonrefundable registration fee.

After you pass on, "your cat then comes to live in the luxury accommodations of the cats-only resort," reads the promotion on its Web site, "Your cat will then be matched with others of similar characteristics to assure any roommates are suitable matches. Then, your cat will live out its life in luxury."

Cost: \$5,000 a year.

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