

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 610

Short Title: Honorary/Pet/Cemetery Trusts.

(Public)

Sponsors: Senator Hartsell.

Referred to: Children and Human Resources.

March 29, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE GENERAL
3 STATUTES COMMISSION TO AUTHORIZE HONORARY TRUSTS, TRUSTS
4 FOR PETS, AND TRUSTS FOR CEMETERY LOTS.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 36A of the General Statutes is amended by adding a new
7 Article to read:

8 **"ARTICLE 13.**
9 **"HONORARY TRUSTS; TRUSTS FOR PETS;**
10 **TRUSTS FOR CEMETERY LOTS.**

11 **"§ 36A-135. Honorary trusts.**

12 Except as otherwise provided in this Article, a trust (i) for a noncharitable
13 corporation or unincorporated society or (ii) for a lawful noncharitable purpose may be
14 performed by the trustee for 21 years but no longer, whether or not there is a beneficiary
15 who can seek the trust's enforcement or termination and whether or not the terms of the
16 trust contemplate a longer duration.

17 **"§ 36A-136. Trusts for cemetery lots.**

18 A trust, contract, or other arrangement to provide for the care of a cemetery lot,
19 grave, crypt, niche, mausoleum, columbarium, grave marker, or monument is valid
20 without regard to remoteness of vesting, duration of the arrangement, or lack of definite
21 beneficiaries to enforce the trust, provided that the trust, contract, or other arrangement
22 meets the requirements of G.S. 28A-19-10, Article 4 of Chapter 65 of the General
23 Statutes, Article 9 of Chapter 65 of the General Statutes, or other applicable law. This
24 section does not revoke, repeal, supersede, or diminish G.S. 36A-49.

1 **"§ 36A-137. Trusts for pets.**

2 (a) Subject to the provisions of this section, a trust for the care of one or more
3 designated domestic or pet animals alive at the time of creation of the trust is valid.

4 (b) Except as expressly provided otherwise in the trust instrument, no portion of
5 the principal or income may be converted to the use of the trustee or to any use other
6 than for the benefit of the designated animal or animals.

7 (c) The trust terminates at the death of the animal or last surviving animal. Upon
8 termination, the trustee shall transfer the unexpended trust property in the following
9 order:

10 (1) As directed in the trust instrument;

11 (2) If the trust was created in preresiduary clause in the transferor's will or
12 in a codicil to the transferor's will, under the residuary clause in the
13 transferor's will;

14 (3) If no taker is produced by the application of subdivisions (1) or (2) of
15 this subsection, to the transferor or the transferor's heirs under Chapter
16 29 of the General Statutes.

17 (d) The intended use of the principal or income can be enforced by an individual
18 designated for that purpose in the trust instrument or, if none, by an individual
19 appointed by the clerk of superior court having jurisdiction over the decedent's estate
20 upon application to it by an individual.

21 (e) Except as ordered by the clerk or required by the trust instrument, no filing,
22 report, registration, periodic accounting, separate maintenance of funds, appointment,
23 bond, or fee is required by reason of the existence of the residuary relationship of the
24 trustee.

25 (f) A governing instrument shall be liberally construed to bring the transfer within
26 this section, to presume against the merely precatory or honorary nature of the
27 disposition, and to carry out the general intent of the transferor. Extrinsic evidence shall
28 be admissible in determining the transferor's intent.

29 (g) The clerk may reduce the amount of the property transferred, if the clerk
30 decides that the amount substantially exceeds the amount required for the intended use.
31 The amount of the reduction, if any, passes as unexpended trust property under
32 subsection (c) of this section.

33 (h) If no trustee is designated or if no designated trustee agrees to serve or is able
34 to serve, the clerk shall name a trustee. The clerk may order the transfer of the property
35 to another trustee, if required to assure that the intended use is carried out and if no
36 successor trustee is designated in the trust instrument or if no designated successor
37 trustee agrees to serve or is able to serve. The clerk may also make such other orders
38 and determinations as shall be advisable to carry out the intent of the transferor and the
39 purpose of this section."

40 Sec. 2. The Revisor of Statutes shall cause to be printed along with this act
41 all relevant portions of the Official Commentary to the Uniform Statutory Rule Against
42 Perpetuities Act and all explanatory comments of the drafters of this act as the Revisor
43 may deem appropriate.

1 Sec. 3. This act becomes effective October 1, 1993, and applies to trusts
2 created on or after the effective date of this act.