

FUNDING OPTIONS FOR PET TRUSTS

Gerry W. Beyer

*Governor Preston E. Smith Regents Professor of Law
Texas Tech University School of Law*

What does it mean to “fund” your pet trust?

Funding means to transfer money or other property into your trust for the care of your pet. Without funding, the trustee will not be able to provide your pet with care after you die.

How much property do I need to fund my pet trust?

You need to consider many factors in deciding how much money or other property to transfer to your pet trust. These factors include the type of animal, the animal’s life expectancy (especially important in case of long-lived animals such as parrots), the standard of living you wish to provide for the animal, the need for potentially expensive medical treatment, and whether the trustee is to be paid for his or her services. Adequate funds should also be included to provide the animal with proper care, be it an animal-sitter or a professional boarding business, when the caretaker is on vacation, out-of-town on business, receiving care in a hospital, or is otherwise temporarily unable personally to provide for the animal.

The size of your estate must also be considered. If your estate is relatively large, you could transfer sufficient property so the trustee could make payments primarily from the income and use the principal only for emergencies. On the other hand, if your estate is small, you may wish to transfer a lesser amount and anticipate that the trustee will supplement trust income with principal invasions as necessary.

You should avoid transferring an unreasonably large amount of money or other property to your pet trust because such a gift is likely to encourage your heirs and beneficiaries to contest the trust. If the amount of property left to the trust is unreasonably large, the court may reduce the amount to what it considers to be a reasonable amount.

When do I fund my pet trust?

If you create an inter vivos pet trust, that is, a trust which takes effect while you are alive, you need to fund the trust at the time it is created. You may also add additional funds to the trust at a

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later time or use the techniques discussed below.

If you create a testamentary pet trust, that is, the trust is contained in your will and does not take effect until you die, then you need to fund the trust by a provision in your will or by using one of the techniques discussed below.

How do I fund my pet trust?

Direct transfers: If you create your trust while you are alive, you need to transfer money or other property to the trustee. You need to be certain to document the transfer and follow the appropriate steps based on the type of property. For example, if you are transferring money, write a check which shows the payee as, “[name of trustee], trustee of the [name of pet trust], in trust” and then indicate on the memo line that the money is for “contribution to [name of pet trust].” If you are transferring land, your attorney should prepare a deed naming the grantee with language such as “[name of trustee], in trust, under the terms of the [name of pet trust].”

If you create the trust in your will, you should include a provision in the property distribution section of your will which transfers both your pet and the assets to care for your pet to the trust. For example, “I leave [description of pet] and [amount of money and/or description of property] to the trustee, in trust, under the terms of the [name of pet trust] created under Article [number] of this will.”

Pour over will provision. If you create your pet trust while you are alive, you may add property (a “pour over”) from your estate to the trust.

Life insurance: You may fund both inter vivos and testamentary pet trusts by naming the trustee of the trust, in trust, as the beneficiary of a life insurance policy. This policy may be one you take out just to fund your pet trust or you may have a certain portion of an existing policy payable to your pet trust. This technique is particularly useful if you do not have or anticipate having sufficient property to transfer for your pet’s care. Life insurance “creates” property when you die which you may then use to fund your pet trust. Be sure to consult with your lawyer or life insurance agent about the correct way of naming the trustee of your pet trust as a beneficiary.

Pay on death accounts, annuities, retirement plans, and other contracts. You may have money in the bank, a annuity, a retirement plan, or other contractual arrangement which permits you to name a person to receive the property after you die. You may use these assets to fund both inter vivos and testamentary trusts by naming the trustee of your pet trust as the recipient of a designated portion or amount of these assets. Be sure to consult with your lawyer, banker, or broker about the correct way of naming the trustee of your pet trust as the recipient of these funds.