SENATE DOCKET, NO. 2523 FILED ON: 4/13/2010

SENATE . . . . . No. 2371

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to trusts for the care of animals.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law or regulation to the contrary, Chapter 203 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 3B the following section: -

Section 3C.

A trust for the care of one or more animals alive during the settlor's lifetime is valid. Unless the trust instrument provides for an earlier termination, the trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal. (a) 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, other than reasonable trustee fees and expenses of administration, or to any use other than for the benefit of a covered animal or animals.

(b) A court may reduce the amount of property held by the trust if it that amount substantially exceeds the amount required for the intended use and the court finds that there will

be no substantial adverse impact in the care, maintenance, health, or appearance of the animal or animals. The amount of the reduction shall pass as unexpended trust property in accordance with paragraph (c) of this Section.

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

(1) As directed in the trust instrument;

(2) To the settler, if living;

(3) 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; or

(4) To the settlor's heirs in accordance with G.L. c. 190.

(d) If a trustee is not designated by the trust instrument or no designated trustee is willing or able to serve, the court shall name a trustee. The court may order the transfer of the property to another trustee if the transfer is necessary to ensure that the intended use is carried out. The court may also make other orders and determinations as are advisable to carry out the intent of the settlor and the intended use of the trust.

(e) The intended use of the principal or income may be enforced by an individual designated for that purpose in the trust instrument, by the person having custody of an animal for which care is provided by the trust instrument, by a remainder beneficiary, or by an individual appointed by a court upon application to it by an individual or charitable organization.

(f) The settlor or other custodian of an animal for whose benefit the trust was created may transfer custody of the animal to the trustee at or subsequent to the creation of the trust.

(g) Any trust created under this Section shall be exempt from G.L. c. 184A and the common law rule against perpetuities.