

Ensure your pets aren't lost in the shuffle after your death

By [Ben Steelman](#) Staff Writer

Published: Monday, September 8, 2008

Not everyone loves Trouble, but you have to envy her. The white Maltese was left \$12 million by her late owner, hotel diva Leona Helmsley. Every few months, it seems, there's another media pooch or kitty like Trouble living in the lap of luxury, thanks to a human friend's last will and testament.

For most animal companions, though, life after their humans is hardly as easy - sometimes, even grim.

"We've heard horror stories," said Jon Sayers, an online entrepreneur. Some animals are quickly put down, against their owners' wishes. Sometimes, through mistaken identity, the wrong pet ends up being killed.

More than 55 percent of Americans don't have a last will and testament, according to a survey by FindLaw, the online legal reference site. If you don't write one, your pets could be thrown into jeopardy if you die unexpectedly.

"There's nothing in the law to protect pets after your death," Sayers said, "unless you put something in writing."

Sayers and his wife Liz, a pair of Britons transplanted to Florida, operate ItsMyLife.com, a Web site that offers forms for legal wills and other end-of-life documents, for a fee, which individuals and couples can fill out on their own. (Prices start around \$19.95.) Pets are a big part of the Sayers' concern.

First off, news stories to the contrary, you can't just leave your money to your pet. Under American law, animals can't own property, and no court will recognize your gift.

So, what to do? Well, you can leave your pet to someone in your will, along with enough money to cover its upkeep. Presumably, you clear this bequest with your dog or cat's human protector in advance and presumably, you'll choose someone who's loving and trustworthy. Experts suggest you also designate a substitute or alternate, in case your first choice dies before you or cannot take care of the animal.

But what's to keep your human beneficiary from simply pocketing your money and then dumping Rover or Fluffy at the pound, or on some country road? Fortunately, the law provides a more ironclad option: a pet trust. This is what Helmsley and her lawyers drew up for Trouble.

North Carolina is one of 38 states (along with the District of Columbia) that recognize pet trusts, said John V. Orth, a Kenan professor of law at the University of North Carolina at Chapel Hill. (The exact provision is N.C. General Statute 36C-4-408, as revised by the General Assembly in 2006.)

"We haven't had any cases in court yet, but it's been tested out in other states, and it seems to work pretty well," said Orth, who's thinking about drawing up a trust to take care of his dog.

Basically, you can create a trust to take care of one or more companion animals. A lawyer can do this for you, or you can try your luck with a do-it-yourself service such as ItsMyLife.com.

Generally, you'll need to set aside a sum of money - at least \$500 or so, Sayers said.

"Think of how much money you spend on your pets for food, medicines and the like," Sayers said, "then multiply that by the number of years your pet might be expected to live."

You choose a trustee, who might be a trusted friend or a representative of your bank, to see that the money is paid out in periodic installments, Orth said. You also should appoint a guardian or protector, someone trustworthy who'll make sure the trustee is doing his or her job - and who'll complain to the courts if they don't. (This guardian can also be a nonprofit organization, such as an animal rescue group.)

North Carolina law specifies that funds in a pet trust cannot go to the trustee or be used for any purpose other than the pet's benefit.

The pet trust comes with a few limitations. In North Carolina, the clerk of Superior Court in your county may reduce the amount of a trust if it seems excessive, Orth said, limiting its balance to an amount judged sufficient for your animal friend's use. Earlier this year, New York's state Surrogate's Court reduced the size of Trouble's trust from \$12 million to \$2 million as part of a settlement of the Helmsley estate.

You might also want to leave some extra instructions, Sayers said. The pets package at ItsMy Life.com offers an additional "Pet's Letter of Wishes," which isn't legally binding, but does indicate your specific wishes for your animal friend's future. Included might be a photograph of the pet, care instructions - how often it should be fed, favorite foods, treats and toys - as well as the name and telephone number of a preferred veterinarian. One of Sayers' clients even specified the kind of music that her parrot liked to hear in the background.

ItsMyLife.com advertises that it's the most pet-friendly service of its kind, but it does have competition. New York lawyer Rachel Hirschfeld offers the The Hirschfeld Pet Trust and The Pet Protection Agreement, trademarked documents that let you choose a guardian or trustee and specify your animal's care. One advantage of Hirschfeld's legal package is that it could go into effect even before you die - for example, if you're confined to a hospital or nursing home. For details, visit www.pettrustlawyer.com.

http://www.starnewsonline.com/article/20080908/ARTICLES/809080325&title=Ensure_your_pets_aren_t_lost_in_the_shuffle_after_your_death