

ESTATE PLANNING FOR YOUR HORSES: PROTECTING YOUR HORSES IF THEY OUTLAST YOU

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It is 8:00 on a brisk, summer morning. You just finished your morning barn chores — the horses are fed, their stalls are clean. Your mare is peacefully grazing outside while her one-month-old filly prances around her; your two geldings look on. As you start your second cup of coffee, you catch up on the daily news. An article about horses catches your eye — “Horses Seized from Property After Owner Dies.” You read on. Twenty horses were seized following the unexpected death of the man caring for the horses. The man’s widow, not a horse person herself, asked for the horses to be taken away. The horses will be sent to auction. There will be no reserve. Some of the horses are old, others are malnourished from improper care since the man’s untimely death. The horses that don’t sell may be euthanized if they cannot find suitable foster homes. You are in disbelief. How can this happen? Will these horses really be euthanized? Will others be sold to killer buyers? How did the man not plan for this? You look out the window at your small herd and realize that this could happen to them — you do not have an estate plan. You never even thought about a will. If something happened to you, your horses could meet the same, sad fate.

What Happens to my Horses if I Don't Have an Estate Plan?

If owners do not take appropriate steps to provide for their horses, the consequences can be dire. Without a will, your horse will become the property of whoever is entitled to inherit from you in accordance with state law. Like the story above, these family members may have no interest in inheriting your horses, and no knowledge of how to care for your horses or how to go about selling your horses in a fair sale.

What Can I Do to Protect My Horses if They Outlive Me?

With careful planning, and sound legal advice, your horses will be protected if they outlast you. The first consideration in estate planning for your horse is “who” – who among your family, friends, or fellow equine contacts has the desire and knowledge to properly care for or sell your horse?

The next consideration is the “how” – how should this person take ownership of your horse? The most simple option is stating in your will that the horse be given to a specific friend or relative. You may want to consider leaving a bequest of cash, or

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other property, to the person taking the animal to help cover the care of the horse. If your will names specific horses to various individuals, you will need to continuously revise your will, as most people have a succession of horses during their lives.

You can also create a trust for your horse. An increasing number of horse owners are opting for a horse trust. A horse trust is a written declaration of how the horse owner wishes their horse to be cared for after the owner's death. A horse trust ensures care for the horse if the owner gets sick or dies. A trust can be inter vivos (created during the lifetime of the horse owner) or created under your will after your death.

In a horse trust, you will name a trustee who will carry out your wishes for the horse. You can provide detailed instructions for the distribution of trust funds for the horse's care. The trust will mandate how the funds will be administered and where the remaining assets should go following the horse's death. The trust can contain information about your horse's conditioning, health issues and food preferences. When selecting your "horse guardian," you ideally would want a person who currently owns or has cared for horses in the past. The horse guardian will care for your horse in accordance with your instructions set forth in the trust. When preparing the trust, you should carefully consider the cost of care for your horse, and fund the trust accordingly.

A horse trust terminates upon the death of the animal. If the trust is established to provide for the care of more than one horse, the trust will terminate upon the death of the last surviving horse.

What Are the Benefits of Establishing a Trust as Opposed to Making a Simply Bequest of a Horse in Your Will?

If you want to give the person who will care for your horse cash to pay for expenses, a trust structure offers more oversight, particularly if there are two trustees. The trust assets must be segregated from the trustees' personal assets, and must be used for the horse's upkeep as directed in the trust document. If the cash is simply given to the horse's new owner outright, the cash can be used by the owner, even on the owner's personal expenses, without limitation. You take your chance that your horse will receive proper care.

In addition, using a trust allows for succession of your "horse guardian." If you leave your horse to someone outright as part of a bequest, and that person dies shortly thereafter, that person's estate plan determines what happens to your horse. Instead, if you had left your horse to a trust, and the trustee dies or becomes incapacitated, the person that you name as your back-up trustee will take over, and the back-up trustee will continue to administer your trust and to carry-out your wishes.

Conclusion

Although proper estate planning can be daunting, having a knowledgeable equine attorney to guide you through the process will relieve much of that burden. The time and effort to think through and plan these complex issues will assure that your equine family will be protected after your death.