

AMERICAN BAR ASSOCIATION  
TORT TRIAL AND INSURANCE PRACTICE SECTION  
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association approves the Model Act  
2 Governing Standards for the Care and Disposition of Disaster Animals,  
3 dated February 2010 and recommends its adoption by state legislative  
4 bodies.

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10 AMERICAN BAR ASSOCIATION MODEL ACT GOVERNING  
11 STANDARDS FOR THE CARE AND DISPOSITION OF DISASTER  
12 ANIMALS (February 2010)

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14 **Section 1. Short Title**

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16 This Act may be cited as the “Standards for the Care and Disposition of  
17 Disaster Animals”

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19 **Section 2. Purpose**

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21 The purpose of this Act is to provide certainty of ownership for disaster  
22 animals by providing an owner with a specific time frame by which the  
23 owner must reclaim companion animals following a declared federal disaster  
24 or state emergency, and to provide an animal shelter with specific guidelines  
25 as to how long disaster animals must be held prior to their disposition.

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**Section 3. Definitions**

As used in this Act:

(1) “Animal Shelter” means: a physical facility or entity, including those utilizing private homes, operating for the purpose of providing temporary or long term shelter to lost, unwanted or abandoned animals, that is recognized and approved by the state or local authority. For the purposes of this Model Act, the singular, as in “Animal Shelter,” shall include the plural, as in “Animal Shelters,” and vice versa.

(2) “Disaster Animals” means domesticated companion animals that have become separated from an owner as the result of a Class #1 or Class #2 Event. Disaster animals include those found on private property or running at large, as well as, owner surrendered or relinquished companion animals. Feral animals are excluded from this Act.

(3) “Companion Animals” mean domesticated animals, such as a dog, cat, bird, rabbit, rodent, or turtle that are traditionally kept in the home for pleasure rather than for commercial purposes, can travel in commercial carriers, and be housed in temporary facilities. Companion animals do not include reptiles (except turtles), amphibians, fish, insects/arachnids, farm animals (including horses), and animals kept for racing purposes or animals held by a registered research facility under the federal Animal Welfare Act. Feral animals, animals covered by the federal Animal Welfare Act or by regulations issued under that act, and any other animals held for use in or used in research are excluded from this Act

(4) “Owner” means the person having title to companion animals.

(5) “Feral Animals” means animals that do not have an owner.

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62 (6) “Holding Period” means the length of time that disaster animals  
63 are cared for by an animal shelter and not disposed of, except by  
64 humane euthanasia.

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66 (7) “Reclaim” means the taking back of possession of disaster animals  
67 by the owner or an agent of the owner.

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69 (8) Class #1 Event State declared emergency for a county or portion  
70 of county requiring companion animals’ owner to leave their  
residences for more than 24 hours.

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72 (9) Class #2 Event: Federally declared disaster requiring companion  
73 animals’ owner to leave their residences for more than 24 hours.

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75 (10) “Tracking Information” means available information about the  
76 owner, physical description and health history of the disaster animal,  
77 photographs of the disaster animals, information about where the  
78 disaster animals were found and transported to, recommended course  
79 of treatment, and communications with an owner, including holding  
80 period extension by contract.

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82 (11) “Approved Website” means a website approved by the state  
83 veterinarian.

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85 (12) “Extension by Contract” means extensions of the mandated  
86 holding period based upon an agreement between the owner and  
87 animal shelter for an additional time period.

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89 (13) “Shelter Animals” means companion animals living at an animal  
90 shelter before a Class #1 or Class #2 Event.

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#### 92 **Section 4. Provisions for Disaster Animals**

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94 (a) Disaster animals taken from a disaster area or delivered to an animal  
shelter following a Class #1 or Class #2 Event will be kept by the animal

95 shelter that receives the disaster animals according to the applicable holding  
96 period, unless the owner of the disaster animals agrees otherwise in writing.  
97 After the applicable holding period has passed for disaster animals, then the  
98 animal shelter has the authority to dispose of the disaster animals as allowed  
99 under state law when there is no Class #1 or Class #2 Event, unless the  
100 owner has an extension by contract with the animal shelter for additional  
101 time. An owner who does not retake possession of their disaster animals by  
102 the end of the applicable holding period plus any extension by contract  
103 thereof, has abandoned the disaster animals and any new owner shall have  
104 unencumbered title to the disaster animals.

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106 (b) Holding periods:

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108 (1) Class #1 Event: Disaster animals brought in to an animal shelter  
109 shall be kept by the animal shelter for 30 days.

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111 (2) Class #2 Event: Disaster animals brought to an animal shelter shall  
112 be kept for 90 days after the posting of a photograph and tracking  
113 information about the disaster animals sufficient to give notice to an owner  
114 on an approved website. The holding period for the animal shelter shall be  
115 six months if posting on an approved website does not occur. This  
116 requirement may be modified by the State Veterinarian or as otherwise  
117 determined by the State Veterinarian.

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119 (c) During the holding period, the animal shelter is fully authorized to  
120 provide or arrange for necessary veterinary health services that are in the  
121 best interests of the disaster animals as may be determined by a veterinarian.  
122 Disaster animals that exhibit ownership by the presence of a tag or  
123 identification chip or was removed from a private residence, including  
124 fenced adjacent land, may not be spayed or neutered without the written  
125 permission of the owner unless it is medically necessary as may be  
126 determined by a veterinarian.

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128 (d) During the holding period an animal shelter may place a disaster animal  
129 in a private home or other animal shelter either in the state or out of the state

130 so long as available tracking information is kept, and any transfer out of  
131 state is authorized by the state veterinarian. In no case shall title to a disaster  
132 animal be awarded to a new owner until after the holding period has expired,  
133 together with any extension by contract thereof.

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135 (e) If an owner of disaster animals contacts an animal shelter about disaster  
136 animals but is unable to assume possession of the disaster animals by the end  
137 of the applicable holding period, then the owner may request the animal  
138 shelter to keep the disaster animals for up to an additional 30 days, if the  
139 owner is willing to pay the cost of care as established by the animal shelter  
140 for the disaster animal during the extension by contract. The animal shelter  
141 may require payment of the costs as a condition of extending the holding  
142 period. If by the end of the extension by contract the disaster animals have  
143 not been reclaimed by the owner, then the animal shelter may treat the  
144 holding period as expired. The animal shelter shall advise an owner of the  
145 dates of the required holding period and opportunity for extensions by  
146 contract, if any owner inquiry is made

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148 (f) If an animal shelter becomes inoperative because of a Class #1 Event or  
149 Class #2 Event, then all the companion animals removed from the animal  
150 shelter shall be treated as disaster animals by whoever takes control of the  
151 companion animals, unless records that accompany the shelter animals  
152 demonstrate that it was lawfully permissible to transfer title to the shelter  
153 animals before a Class #1 or Class #2 Event. If these records are available,  
154 then the shelter animals would not be treated as disaster animals.

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156 (g) If an owner of disaster animals has contacted the animal shelter  
157 responsible for their disaster animals before the end of the holding period to  
158 reclaim the disaster animals, but the animal shelter or other possessor of the  
159 disaster animals refuses to return the disaster animals, then any transfer of  
160 title agreement by the shelter to a new owner is voidable by court order.

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162 **Section 5. Private Keeping of Disaster Animals**

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164 Any individual, who is not working under the authority of an animal shelter,  
165 who takes possession of disaster animals, shall transfer the disaster animals  
166 as quickly as reasonably possible to an animal shelter along with available  
167 tracking information.

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### 169 **Section 6. Movement of Animals**

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171 (a) No disaster animals may be removed from the State without the  
172 permission of the State Veterinarian or by satisfying such requirements as  
173 might be established by the State Veterinarian.

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175 (b) Except as provided above, anyone who knowingly removes disaster  
176 animals from the state is subject to a civil fine of up to \$1,000 per offense.

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### 178 **Section 7. Exemptions**

179 (a) This Act shall not limit an animal control authority or agent thereof from  
180 humanely euthanizing an animal in accordance with existing state law.

181 (b) This Act does not impose any affirmative duty on an animal shelter to  
182 admit disaster animals.

183 (c) This Act shall not restrict or interfere with the general powers of the  
184 State Veterinarian [or Department of Agriculture] [Department of Health],  
185 including the power to quarantine or restrict the movement of disaster  
186 animals, or to exercise powers provided by law.

187 (d) This Act shall not be construed as preventing veterinary care for disaster  
188 animals either before or after they are brought to an animal shelter.

### 189 **Section 8. Effective Date**

190 This Act shall take effect July 1, 20xx.

## REPORT

Hurricanes, Gustaf, and Ike are the most recent reminders of the major disasters that periodically strike American communities. The country also experiences many smaller, but locally no less significant disasters such as fires, tornados, and others. A common thread in such disasters is that both the human and animal populations often become dislocated from the disaster area.

This recommendation is intended to address a problem that arises with animal rescue operations. When disaster strikes, many companion animals, primarily dogs and cats, are separated from their owners, abandoned, or otherwise dislocated. The animals that survive usually end up in animal shelters which quickly become overwhelmed.

Often, there are no guidelines for how long a shelter must keep an animal, how and when it may adopt the animal out, or when it may otherwise move the animal. At the same time animal owners encounter problems; their efforts to find and reunite with their companion animals are also affected by the lack of any guidelines as to how long an animal must be kept, when it can be adopted out, and when it can be moved.

In the wake of Hurricane Katrina many owners found the location of their companion animals only to discover that their companion animal had been adopted by a new family, or even euthanized because of the lack of shelter space or other problems. Many ownership disputes and much human and animal suffering resulted from the lack of guidelines as to what shelters can do with companion animals and how long they must keep a companion animal before taking action.

The TIPS Animal Law Committee was instrumental in putting together an Animal Disaster Relief Network following Hurricanes Katrina and Rita. The Network includes most of the major animal organizations in the United States. The Network subsequently formed a Legal Panel on Emergency Management Regarding Animals. One of the issues the Legal Panel addressed was the concern about disaster guidelines and rules for animal shelters, including the general lack of mandatory minimum hold periods. The Legal Panel's primary conclusion was that every state and territory needs to have a policy in place that provides rules and guidelines for animal shelters in disaster situations, including

mandatory minimum holding periods.

To achieve that goal, the Legal Panel recommended that states and territories adopt statutes setting forth mandatory minimum hold periods for animals caught up in disasters. With input from major animal organizations in the United States, the Legal Panel developed a model statute that could be used by the states and territories in establishing guidelines and hold periods for disaster animals. The Legal Panel's recommended statutory language, The Model Act governing "Emergency Holding Periods for Disaster Animals", is set forth in this recommendation.

The Tort Trial and Insurance Practice Section urges adoption of this Recommendation calling for states and territories to adopt a statute to establish disaster guidelines for animal shelters and mandatory minimum hold periods for companion animals following disasters.

Respectfully submitted

John R. Tarpley, Chair  
Tort Trial and Insurance Practice Section  
February 2010

## GENERAL INFORMATION FORM

Submitting Entity: Tort Trial and Insurance Practice Section

Submitted By: John R. Tarpley, Chair

1. Summary of Recommendation(s). This Recommendation is intended to address a problem that arises with animal rescue operations in disasters, when many companion animals, primarily dogs and cats are separated from their owners, abandoned, or otherwise dislocated. The animals that survive usually end up in animal shelters with uncertain results because the animal shelters become overwhelmed with animals and there is often no guidelines for how long a shelter must keep an animal, how and when they may adopt the animal out, or when they may otherwise move the animal.
2. Approval by Submitting Entity. Approved by the Council of the Tort Trial and Insurance Practice Section on October 4, 2009.
3. Has this or a similar recommendation been submitted to the House or Board previously? Yes, but it was withdrawn so that revisions could be made.
4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption? Not applicable
5. What urgency exists which requires action at this meeting of the House? It has been established that the fate of companion animals has affected the life and health of concerned and loving owners. Providing a set of procedural rules that establish mandatory minimum hold periods for companion animals following disasters provides certainty to shelters and owners in search of companion animals. The next hurricane season begins June 1.
6. Status of Legislation. (If applicable.) Not applicable
7. Cost to the Association. (Both direct and indirect costs.) Not applicable

8. Disclosure of Interest. (If applicable.) Not applicable
9. Referrals.  
This Report and Recommendation is referred to the Chairs and Staff Directors of all ABA Sections and Divisions.
10. Contact Persons. (Prior to the meeting.)
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## **EXECUTIVE SUMMARY**

### 1. Summary of the Recommendation

This Recommendation calls for states and territories to adopt a statute to establish guidelines for animal shelters and mandatory minimum hold periods for companion animals following disasters.

### 2. Summary of the Issue that the Resolution Addresses

The Recommendation is intended to address a problem that arises with animal rescue operations in disasters, when many companion animals, primarily dogs and cats, are separated from their owners, abandoned, or otherwise dislocated. The animals that survive usually end up in animal shelters with an uncertain fate, because the animal shelters become overwhelmed with animals and there are often no guidelines for how long a shelter must keep an animal, how and when they may adopt the animal out, or when they may otherwise move the animal.

In the wake of Hurricane Katrina, many owners found the location of their companion animals, only to discover that their companion animal had been adopted by a new family, or even euthanized because of the lack of shelter space or other problems. Many ownership disputes and much human and animal suffering resulted from the lack of guidelines as to what shelters can do with companion animals and how long they keep a companion animal before taking action.

### 3. Please Explain How the Proposed Policy Position will Address the Issue

The recommended model statute can be used by the states and territories in establishing guidelines and hold periods for disaster animals, providing a safe harbor for shelters and greater certainty for owners concerning the time periods available to them to seek, find and recover their companion animals. It does not require any government agency to accept the financial or physical burden of disaster animals. It does not change the legal status of animals already in government control but is an aid for those animal shelters that voluntarily accept responsibility for disaster animals. This is

done by providing clearer guidelines on what should be done by the holding agency to allow the owners to find their animals and stating how long to hold the animals. The provisions also seek to limit difficulties experienced in the past by requiring that the animals be kept in the state of the disaster for a minimum period rather than having the animals scattered across the county.

4. Summary of Minority Views or opposition which have been identified:

No minority or opposing view has been identified