

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH70348-LL-232 (3/17)

Short Title: Wills/Bequests to Drafting Attorney.

(Public)

Sponsors: Representative Mackey.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO RENDER VOID ANY BEQUEST OR DEVISE IN A WILL TO THE  
3 ATTORNEY WHO DRAFTED THE WILL UNLESS THE ATTORNEY IS A  
4 RELATIVE OF THE TESTATOR.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 31 of the General Statutes is amended by adding a new  
7 section to read:

8 "**§ 31-4.1. Attorneys as beneficiaries.**

9 An attorney who drafts an attested written will, or a codicil to an attested written will, may  
10 not be a beneficiary under that will, regardless of whether the attorney receives compensation  
11 for preparing the will or codicil, unless the attorney is a relative of the testator within five  
12 degrees of kinship. Any bequest or devise to an attorney in violation of this section shall be  
13 void."

14 **SECTION 2.** G.S. 31-32 reads as rewritten:

15 "**§ 31-32. When and by whom caveat filed.**

16 (a) At the time of application for probate of any will, and the probate thereof in  
17 common form, or at any time within three years thereafter, any person entitled under such will,  
18 or interested in the estate, may appear in person or by attorney before the clerk of the superior  
19 court and enter a caveat to the probate of such will: Provided, that if any person entitled to file a  
20 caveat be within the age of 18 years, or insane, or imprisoned, then such person may file a  
21 caveat within three years after the removal of such disability.

22 (b) Notwithstanding the provisions of ~~the first paragraph~~ subsection (a) of this section,  
23 as to persons not under disability, a caveat to ~~the probate of a~~ must be filed as follows:

24 (1) For a will probated in common form prior to May 1, 1951, ~~must be filed~~  
25 within seven years of the date of probate or within three years from May 1,  
26 1951, whichever period of time is shorter.

27 (2) For a will in which the attorney who drafts the will is named as a beneficiary  
28 in violation of G.S. 31-4.1 within five years of the date of probate."

29 **SECTION 3.** This act becomes effective January 1, 2010, and applies to wills  
30 executed on or after that date.

