

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1390

Short Title: Wills/Bequests to Drafting Attorney. (Public)

Sponsors: Representatives Mackey, Hall, Mobley, Faison (Primary Sponsors);
K. Alexander, Cotham, Gibson, Glazier, Harrison, Jones, Parmon, Pierce,
Stewart, Wainwright, and Womble.

Referred to: Ways and Means/Broadband Connectivity, if favorable, Judiciary III.

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO RENDER VOID ANY BEQUEST OR DEVISE IN A WILL TO THE
ATTORNEY WHO DRAFTED THE WILL UNLESS THE ATTORNEY IS A
RELATIVE OF THE TESTATOR.

The General Assembly of North Carolina enacts:

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

§ 31-4.1. Attorneys as beneficiaries.

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

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

§ 31-32. When and by whom caveat filed.

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

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

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

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

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

