



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 50**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S50-ATC-83 [v.3]

Page 1 of 2

Amends Title [YES]
Third Edition

Date _____, 2021

Representative _____

1 moves to amend the bill on page 1, lines 3-4, by rewriting those lines to read:

2
3 "ESTATES AND TRUSTS.";

4
5 And on page 2, lines 42-43, by inserting the following between those lines:

6
7 "(d) Nothing in this Article shall preclude a party from seeking relief from a judgment
8 pursuant to Rule 60 of the North Carolina Rules of Civil Procedure, including without limitation,
9 for fraud upon the court.";

10
11 and on page 3, lines 45-46, by inserting the following between those lines:

12
13 **"SECTION 1.4A. G.S. 28A-2B-4 reads as rewritten:**

14 **"§ 28A-2B-4. Declaration by court; bar to caveat.**

15 (a) If the court enters a judgment declaring a will or codicil to be valid, such judgment
16 shall be binding upon all parties to the proceeding, including any persons represented in the
17 proceeding pursuant to the provisions of G.S. 28A-2-7, and no party bound by the judgment shall
18 have any further right to, and shall be barred from filing, a caveat to the will or codicil once that
19 will or codicil is entered into probate following the petitioner's death. ~~If a party shows, by clear~~
20 ~~and convincing evidence, that before and during the hearing, the petitioner was subject to~~
21 ~~financial or physical duress or coercion which was so significant that the petitioner would not~~
22 ~~have reasonably disclosed it at the hearing, the party may make a motion to the superior court~~
23 ~~that the party be permitted to file a caveat, notwithstanding the entry of the judgment.~~

24 (b) If the court declares a will or codicil to be valid, upon the motion of the petitioner or
25 the court, the court may order that the will or codicil cannot be revoked and that no subsequent
26 will or codicil will be valid unless the revocation or the subsequent will or codicil is declared
27 valid in a proceeding under this Article. If the court enters such an order, any subsequent
28 revocation of the will or codicil not declared valid in a proceeding under this Article shall be void
29 and any subsequent will or codicil not declared valid in a proceeding under this Article shall be
30 void and shall not be admitted to probate.

31 (c) If a will or codicil judicially declared valid is revoked or modified by a subsequent
32 will or codicil, nothing in this section shall bar an interested person from contesting the validity



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- 1 of that subsequent will or codicil, unless that subsequent will or codicil is also declared valid in
2 a proceeding under this Article in which the interested person was a party. If a will or codicil
3 judicially declared valid is revoked by a method other than the execution of a subsequent will or
4 codicil, nothing in this section shall bar an interested person from contesting the validity of that
5 revocation, unless that revocation is also declared valid in a proceeding under this Article in
6 which the interested person was a party.
7 (d) Nothing in this Article shall preclude a party from seeking relief from a judgment
8 pursuant to Rule 60 of the North Carolina Rules of Civil Procedure, including without limitation,
9 for fraud upon the court.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____