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Assembly OKs Bill to Ban Client Bequests to Lawyers : Legislation: Measure stems from case of Laguna Hills attorney who made himself a beneficiary, netting millions.

July 17, 1993 | ERIC BAILEY and DAVAN MAHARAJ | TIMES STAFF WRITERS

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SACRAMENTO — State lawmakers approved legislation Friday that would restrict lawyers from making themselves beneficiaries of their clients' estates, a practice that netted an Orange County attorney millions of dollars from Leisure World retirees.

The Assembly voted 68 to 0 to give final approval to the bill, which now goes to Gov. Pete Wilson, who is expected to sign it into law in the next two weeks.

Authored by Orange County Assemblymen Tom Umberg (D-Garden Grove) and Bill Morrow, a Republican lawmaker whose South County district includes Leisure World in Laguna Hills, the measure would invalidate, with some exceptions, bequests to attorneys who prepared or arranged for wills or trusts that gave them gifts.

The two lawmakers pushed for the legislation after revelations in The Times that Laguna Hills lawyer James D. Gunderson, 68, made himself a major beneficiary of many of his clients' estates.

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In one case, Gunderson arranged for a blind and bedridden 98-year-old Leisure World man to sign a will and a trust that together bequeathed the attorney \$3.5 million and made the other beneficiaries liable for an estimated \$2 million in inheritance taxes he normally would have incurred.

Gunderson, who has repeatedly denied any wrongdoing, received the inheritances despite a longstanding California Supreme Court ruling that anything more than a "modest" gift to an attorney from a client's estate raises questions of impropriety.

The attorney's law practice, which is located just outside the gates of Leisure World in Laguna Hills, has become the subject of investigations by the Orange County Sheriff's Department, the State Bar of California and the Orange County Bar Assn.

Umberg said he expected Gov. Pete Wilson to sign the bill into law sometime in the next two weeks. If so, California would join 38 other states in the nation that forbid lawyers from writing wills giving them part of an estate.

"This is a good step toward preventing some of the outrageous conduct over the last few years involving attorneys cheating their clients by writing wills to benefit themselves," said Umberg, a former assistant U.S. attorney.

Morrow, a freshman assemblyman who joined Umberg as a co-author after initially sponsoring a competing bill, said the measure's passage marks "a good day for our senior citizens throughout the state and certainly in Leisure World." In addition, the bill will "plug a loophole that in some cases already has marred the good reputations of attorneys and the State Bar," said Morrow, himself an attorney.

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Harvey Saferstein, State Bar of California president, said he was pleased and confident the legislation will help correct problems brought to light by the well-publicized case involving Gunderson.

"I think this shows that the Legislature as well as the State Bar can deal with problems in our legal system and the way our legal profession operates," Saferstein said. "This is clearly an area of importance given our growing elderly population, their difficulty in handling their affairs, and their potential vulnerability."

Orange County Superior Court Judge Tully H. Seymour, however, suggested the measure should be seen only as a "good first step."

"It's a beginning rather than an end," said Seymour, former presiding judge of the county's probate division. "We shouldn't congratulate ourselves by saying we've solved all our problems. It should be an ongoing effort to find out what additional problems exist that require a legislative solution."

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In addition to the measure, the State Bar has proposed adding to its rules of professional conduct a clause forbidding attorneys from preparing wills or trusts that bequeath them gifts.

After an extensive investigation, The Times reported last November how Gunderson prepared numerous wills making himself the recipient of millions of dollars in cash, stock and real estate from the estates of elderly and sometimes senile Leisure World clients.

In one case, Gunderson persuaded a judge to name him legal guardian of a Canadian woman described as suffering from senile dementia and thus incapable of managing her assets. Once in control of her affairs, Gunderson drafted a new will that gave him the lion's share of her estate--nearly \$250,000 worth of AT&T stock. Another heir reluctantly dropped a challenge to the will when Gunderson offered her \$60,000 in exchange for abandoning the court action.

Gunderson also used his exclusive control over clients' estates to keep their funds in a savings and loan institution and in a bank that he founded.

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