

**PROHIBITION OF CONTINGENT FEES FOR
EXPERT WITNESSES**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David L. Thomas

House Sponsor: _____

LONG TITLE

General Description:

This bill prohibits contingent fee agreements for expert witnesses in civil actions.

Highlighted Provisions:

This bill:

- ▶ defines contingent fee agreement;
- ▶ defines civil action;
- ▶ prohibits contingent fee agreements for expert witnesses in civil actions; and
- ▶ prohibits introduction of evidence of a common insurer between the party and its

expert witness to demonstrate bias.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78-24-20, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-24-20** is enacted to read:



28 **78-24-20. Prohibition of expert witness contingent fees in civil actions.**

29 (1) As used in this section:

30 (a) "Civil action" means an action for damages for injury, death, or loss to person or
31 property, including a product liability claim. It does not include a civil action for damages for a
32 breach of contract or another agreement between persons.

33 (b) "Contingent Fee Agreement" means an agreement for the provision of testimony or
34 other evidence and related services by an expert witness that specifies:

35 (i) the payment of compensation to the expert witness for the testimony, other
36 evidence, and services is contingent, in whole or in part, upon a judgment being rendered in
37 favor of the plaintiff or defendant in a civil action, upon a favorable settlement being obtained
38 by the plaintiff or defendant in a civil action, or upon the plaintiff in a civil action being
39 awarded in a judgment or settlement damages in at least a specified amount; and

40 (ii) upon satisfaction of the contingency described in Subsection (1)(b)(i), the
41 compensation to be paid to the expert witness is in a fixed amount or an amount to be
42 determined by a specified formula, including, but not limited to, a percentage of a judgment
43 rendered in favor of the plaintiff or a percentage of a favorable settlement obtained by the
44 plaintiff.

45 (2) A plaintiff or defendant in a tort action may not engage an expert witness by means
46 of a contingent fee agreement.

47 (3) If a defendant presents testimony or other evidence in a tort action by means of an
48 expert witness, evidence of a common insurer of liability of the defendant and the expert
49 witness or evidence of a potential financial impact of the action on the amount of liability
50 insurance premiums paid by the expert witness is inadmissible to prove bias, interest, or
51 prejudice of the expert witness unless the party offering the evidence proves that the probative
52 value of the evidence outweighs the evidence's potential prejudicial effect.

Legislative Review Note

as of 11-22-05 6:59 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0103

Prohibition of Contingent Fees for Expert Witnesses

14-Jan-06

7:29 PM

State Impact

No Fiscal Impact.

Individual and Business Impact

May increase individual or business costs.

Office of the Legislative Fiscal Analyst