

78B-1-152 Witnesses -- Prohibition of expert witness contingent fees in civil actions.

- (1) As used in this section, "contingent fee agreement" means an agreement for the provision of testimony or other evidence and related services by an expert witness in a civil action that specifies:
 - (a) the payment of compensation to the expert witness for the testimony, other evidence, and services is contingent, in whole or in part, upon a judgment being rendered in favor of the plaintiff or defendant in a civil action, upon a favorable settlement being obtained by the plaintiff or defendant in a civil action, or upon the plaintiff in a civil action being awarded in a judgment or settlement damages in at least a specified amount; and
 - (b) upon satisfaction of the contingency described in Subsection (1)(a), the compensation to be paid to the expert witness is in a fixed amount or an amount to be determined by a specified formula, including, but not limited to, a percentage of a judgment rendered in favor of the plaintiff or a percentage of a favorable settlement obtained by the plaintiff.
- (2) A plaintiff or defendant in a civil action may not engage an expert witness by means of a contingent fee agreement unless approval is sought and received from the court.
- (3) An expert witness may be engaged by the plaintiff or defendant on the contingency that the expert actually qualify as an expert. Once the witness is qualified as an expert Subsection (2) applies to his continued participation in the action.

Renumbered and Amended by Chapter 3, 2008 General Session