

1                                   **LIEN RECOVERY FUND - RATE OF**  
2   **INTEREST**

3   2003 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Gordon E. Snow**

6   **This act modifies the lien recovery fund provisions of the Liens Code. The act changes**  
7   **the set interest rate to the current interest rate. The act also limits the amount of**  
8   **attorney's fees to 10% of the original judgement.**

9   This act affects sections of Utah Code Annotated 1953 as follows:

10   AMENDS:

11                   **38-11-203**, as last amended by Chapter 198, Laws of Utah 2001

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

13                   Section 1. Section **38-11-203** is amended to read:

14                   **38-11-203. Disbursements from the fund -- Limitations.**

15                   (1) A payment of any claim upon the fund by a qualified beneficiary shall be made only  
16   upon an order issued by the director finding that:

17                   (a) the claimant was a qualified beneficiary during the construction on a residence;

18                   (b) the claimant complied with the requirements of Section 38-11-204; and

19                   (c) there is adequate money in the fund to pay the amount ordered.

20                   (2) A payment of a claim upon the fund by a laborer shall be made only upon an order  
21   issued by the director finding that:

22                   (a) the laborer complied with the requirements of Subsection 38-11-204(6); and

23                   (b) there is adequate money in the fund to pay the amount ordered.

24                   (3) (a) An order under this section may be issued only after the division has complied  
25   with the procedures established by rule under Section 38-11-105.

26                   (b) The director shall order payment of the qualified services as established by  
27   evidence, or if the claimant has obtained a judgment, then in the amount awarded for qualified



28 services in the judgment to the extent the qualified services are attributable to the  
29 owner-occupied residence at issue in the claim.

30 (c) The director shall order payment of interest on all amounts claimed for qualified  
31 services based on the current prime interest rate at the [~~rate of 12%, annual percentage rate,~~  
32 ~~from the date~~] time payment was due to the date the claim is approved for payment except for  
33 delays attributable to the claimant.

34 (d) The director shall base the interest rate for a calendar year on the current applicable  
35 interest rate being charged by leading lending institutions plus 2%. The interest rate  
36 established shall be compatible with guidelines stated in this section.

37 [~~(d)~~] (e) The director shall order payment of costs in the amount stated in the judgment.  
38 If the judgment does not state a sum certain for costs, or if no judgment has been obtained, the  
39 director shall order payment of reasonable costs as supported by evidence. The claim  
40 application fee as established by the division pursuant to Subsection 38-11-204(1)(b) is not a  
41 reimbursable cost.

42 [~~(e)~~] (f) The director shall order payment of attorney's fees in the amount stated in a  
43 judgment. This amount shall not exceed 10% of the original claim amount.

44 (4) (a) Payments made from the fund may not exceed \$75,000 per construction project  
45 to all qualified beneficiaries and laborers who have claim against the fund for that construction  
46 project.

47 (b) If claims against the fund for a construction project exceed \$75,000, the \$75,000  
48 shall be awarded proportionately so that each qualified beneficiary and laborer awarded  
49 compensation from the fund for qualified services shall receive an identical percentage of the  
50 qualified beneficiary's or laborer's award.

51 (5) Subject to the limitations of Subsection (4), if on the day the order is issued there  
52 are inadequate funds to pay the entire claim and the director determines that the claimant has  
53 otherwise met the requirements of Subsection (1) or (2), the director shall order additional  
54 payments once the fund meets the balance limitations of Section 38-11-206.

---

---

**Legislative Review Note**

as of 1-10-03 9:20 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

---

---

**Fiscal Note**  
**Bill Number HB0078**

**Lien Recovery Fund - Rate of Interest**

16-Jan-03

12:53 PM

---

---

**State Impact**

This bill will reduce expenditures from the Lien Recovery Fund about \$82,700.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Restricted Funds	\$0	\$0	(\$82,700)	(\$82,700)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$82,700)</b>	<b>(\$82,700)</b>

---

---

**Individual and Business Impact**

Payments to claimants will be reduced.

---

---

**Office of the Legislative Fiscal Analyst**