

**PROHIBITION OF CONTINGENT FEES FOR
EXPERT WITNESSES**

2006 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines contingent fee agreement;
- ▶ prohibits contingent fee agreements for expert witnesses in civil actions; and
- ▶ allows for the engaging of an expert witness with the contingency that the witness

qualify as an expert before going ahead.

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:

31 **78-24-20. Prohibition of expert witness contingent fees in civil actions.**

32 (1) As used in this section, "contingent fee agreement" means an agreement for the
33 provision of testimony or other evidence and related services by an expert witness in a civil
34 action that specifies:

35 (a) 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 (b) upon satisfaction of the contingency described in Subsection (1)(a), 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 civil action may not engage an expert witness by
46 means of a contingent fee agreement unless approval is sought and received from the court.

47 (3) An expert witness may be engaged by the plaintiff or defendant on the contingency
48 that the expert actually qualify as an expert. Once the witness is qualified as an expert
49 Subsection (2) applies to his continued participation in the action.