

Senator David L. Thomas proposes the following substitute bill:

1                                   **PROHIBITION OF CONTINGENT FEES FOR**  
2   **EXPERT WITNESSES**

3   2006 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: David L. Thomas**

6   House Sponsor: Scott L Wyatt

7	Cosponsors:	Allen M. Christensen	Mark B. Madsen
8	Gregory S. Bell	Parley G. Hellewell	Darin G. Peterson
9	Curtis S. Bramble	Scott K. Jenkins	Michael G. Waddoups
10	D. Chris Buttars		

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12 **LONG TITLE**

13 **General Description:**

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

15 **Highlighted Provisions:**

16           This bill:

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

20 qualify as an expert before going ahead.

21 **Monies Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           None

25 **Utah Code Sections Affected:**

26 ENACTS:



27           78-24-20, Utah Code Annotated 1953

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

30           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)(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 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.

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**Fiscal Note**  
**Bill Number SB0103S01**

**Prohibition of Contingent Fees for Expert Witnesses**

*31-Jan-06*

*8:48 AM*

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**State Impact**

No Fiscal Impact.

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**Individual and Business Impact**

May increase individual or business costs.

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**Office of the Legislative Fiscal Analyst**