

Representative Earl D. Tanner proposes the following substitute bill:

JUDGMENT BY CONFESSION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Earl D. Tanner

Senate Sponsor: _____

LONG TITLE

General Description:

This bill prohibits entry of judgment by confession without notice or opportunity for hearing in legal proceedings.

Highlighted Provisions:

This bill:

- prohibits entry of judgment by confession without notice or opportunity for hearing in legal proceedings.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS AND REENACTS:

78B-5-205, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **78B-5-205** is repealed and reenacted to read:

78B-5-205. Judgment by confession without action and notice prohibited.



26 (1) A judgment by confession may not be entered without filing an action and giving
27 notice and the opportunity for hearing whether based on admission, confession of judgment,
28 warrant of attorney, or other waiver of the right to notice and the opportunity to be heard in the
29 event of suit or similar process described in this section.

30 (2) At the hearing provided by this section, any party may raise any claim or defense
31 relating to the obligation underlying the confession of judgment. The court shall render
32 judgment on the underlying obligation as the facts and law warrant. This subsection may be
33 waived by a debtor through a waiver signed by debtor and debtor's counsel.

34 (3) Notice required by this section, including but not limited to process, shall be served
35 upon the debtor at the debtor's last known address and at every address for physical and
36 electronic communication identified in the agreement authorizing entry of judgment. The
37 agreement authorizing entry of judgment may include an agreement for service in any manner
38 authorized by court rule for the service of process and, if it includes an agreed address for
39 physical or electronic communication, may waive any requirement for a document indicating
40 receipt by debtor or debtor's agent.

41 (4) Notice required by this section shall include:

42 (a) process as required by court rule for the initiation of an action;

43 (b) an affidavit that contains an accounting of the original judgment authorized by the
44 agreement and all payments, credits, and other adjustments made after entry of the original
45 judgment; and

46 (c) a proposed form of judgment.

47 (5) Notice required by this section may not require a response from the debtor prior to
48 30 days following completion of service of the notice.

49 (6) In the event that notice is served as required in this section and a timely response
50 contesting the proposed judgment is not made by the debtor, the court may enter judgment
51 against the debtor.

52 (7) This section does not authorize entry of judgment by means otherwise prohibited by
53 law.