

BAIL AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill allows a court to order bail money to be paid to a judgment creditor.

Highlighted Provisions:

This bill:

▶ allows the court to order that a judgment creditor be paid from funds posted as bail by a judgment debtor.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-306, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-311, 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-6-306** is amended to read:

78B-6-306. Bail bond -- Form.

(1) When a direction to allow the person arrested to post bail is contained in the warrant of attachment, the person shall be released if bond is posted and the person executes a written promise to appear on the return of the warrant, and abide by the order of the court or judge.

30 (2) Any bail posted is subject to the provisions of Section 78B-6-311.

31 Section 2. Section **78B-6-311** is amended to read:

32 **78B-6-311. Damages to party aggrieved.**

33 (1) If an actual loss or injury to a party in an action or special proceeding is caused by
34 the contempt, the court, in lieu of or in addition to the fine or imprisonment imposed for the
35 contempt, may order the person proceeded against to pay the party aggrieved a sum of money
36 sufficient to indemnify [him] and [to] satisfy [his] the aggrieved party's costs and expenses.

37 The court may order that any bail posted by the person proceeded against be used to satisfy all
38 or part of the money ordered to be paid to the aggrieved party. The order and the acceptance of
39 money under it is a bar to an action by the aggrieved party for the loss and injury.

40 (2) A judgment creditor may request that the court pay bail posted by a judgment
41 debtor to the judgment creditor if:

42 (a) the judgment debtor owes the judgment creditor funds pursuant to a court-ordered
43 judgment;

44 (b) the judgment creditor provides the court with a copy of the valid judgment; and

45 (c) bail was posted in cash, or by credit or debit card.

46 (3) Upon receipt of a request by a judgment creditor, the court shall require the
47 judgment debtor to provide either proof of payment or good cause why the court should not
48 order the forfeiture of bail to then be paid to the judgment creditor. The court shall find that
49 good cause exists if the judgment debtor provides admissible evidence that the bail was paid by
50 a third party.

51 (4) The court may, in its discretion, order all or a portion of the funds deposited with
52 the court as bail to be paid to the judgment creditor towards the amount of the judgment. If the
53 amount paid to the court exceeds the amount of the judgment, the court shall refund the excess
54 to the judgment debtor.

55 (5) Within seven days of the receipt of funds, the judgment creditor shall provide to the
56 judgment debtor an accounting of amounts received and the balance still due, if any.