

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO CONTRACTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 523A-25, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§523A-25 Agreement to locate property.** (a) An agreement  
4 by an owner, the primary purpose of which is to locate, deliver,  
5 recover, or assist in the recovery of property that is presumed  
6 abandoned shall be void and unenforceable if it was entered into  
7 during the period commencing on the date the property was  
8 presumed abandoned and extending to a time that is twenty-four  
9 months after the date the property is paid or delivered to the  
10 administrator. [~~This subsection does not apply to an owner's  
11 agreement with an attorney to file a claim as to identified  
12 property or contest the administrator's denial of a claim.~~]

13           (b) An agreement by an owner, the primary purpose of which  
14 is to locate, deliver, recover, or assist in the recovery of  
15 property shall be enforceable only if the agreement is in  
16 writing, clearly sets forth the nature of the property and the  
17 services to be rendered, is signed by the apparent owner, and



1 states the value of the property before and after the fee or  
2 other compensation has been deducted.

3 (c) If an agreement covered by this section applies to  
4 mineral proceeds and the agreement contains a provision to pay  
5 compensation that includes a portion of the underlying minerals  
6 or any mineral proceeds not then presumed abandoned, the  
7 provision shall be void and unenforceable.

8 (d) An agreement covered by this section that provides for  
9 compensation that exceeds ten per cent of the total value of the  
10 property shall be unenforceable except by the owner. An owner  
11 who has agreed to pay compensation that exceeds ten per cent of  
12 the total value of the property, or the administrator on behalf  
13 of the owner, may maintain an action to reduce the compensation  
14 to an amount not to exceed ten per cent of the total value of  
15 the property. The court may award reasonable attorney's fees to  
16 an owner who prevails in the action.

17 (e) This section does not preclude an owner from asserting  
18 that an agreement covered by this section is invalid on grounds  
19 other than excessive or unjust compensation. The court may  
20 award reasonable attorney's fees to an owner who prevails in the  
21 action.



1        (f) This section does not apply to an owner's agreement  
 2        with an attorney to file a claim as to identified property or  
 3        contest the administrator's denial of a claim."

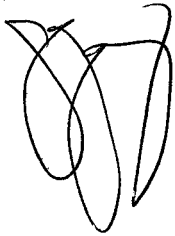
4        SECTION 2. Statutory material to be repealed is bracketed  
 5        and stricken. New statutory material is underscored.

6        SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# S.B. NO. 1265

**Report Title:**

Owner's Agreement; Attorney's Fees; Unclaimed Property

**Description:**

Exempts an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim from the application of section 523A-25, Hawaii Revised Statutes.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

