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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~~] twenty-five per cent of the  
10 total value of the property shall be unenforceable except by the  
11 owner. An owner who has agreed to pay compensation that exceeds  
12 [~~ten~~] twenty-five per cent of the total value of the property,  
13 or the administrator on behalf of the owner, may maintain an  
14 action to reduce the compensation to an amount not to exceed  
15 [~~ten~~] twenty-five per cent of the total value of the property.  
16 The court may award reasonable attorney's fees to an owner who  
17 prevails in the action.

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

4        (1) An owner's agreement with an attorney covered by this  
5 subsection that provides for compensation shall not  
6 exceed twenty-five per cent of the total value of the  
7 property, except as provided in paragraph (2); and

8        (2) An owner's agreement with an attorney to maintain an  
9 action in circuit court under section 523A-16 may  
10 provide for compensation that exceeds twenty-five per  
11 cent of the total value of the property only upon  
12 approval of the court."

13        SECTION 2. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15        SECTION 3. This Act shall take effect on July 1, 2013.



**Report Title:**

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

**Description:**

Specifies that an owner's agreement to locate and recover property that is presumed abandoned, shall be unenforceable and may be subject to an action to reduce the compensation amount if the agreement provides for compensation exceeding twenty-five percent of the total value of the property. 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; provided that an owner's agreement with an attorney that provides for compensation shall not exceed twenty-five per cent of the total value of the property. Provides an exception to the twenty-five per cent limit for an owner's agreement with an attorney to maintain an action in circuit court upon approval of the court. (CD1)

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

