
A BILL FOR AN ACT

RELATING TO THE UNCLAIMED PROPERTY TRUST FUND.

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.

11 (b) An agreement by an owner, the primary purpose of which
12 is to locate, deliver, recover, or assist in the recovery of
13 property shall be enforceable only if the agreement is in
14 writing, clearly sets forth the nature of the property and the
15 services to be rendered, is signed by the apparent owner, and
16 states the value of the property before and after the fee or
17 other compensation has been deducted.



1 (c) Notwithstanding the requirements for an enforceable
2 agreement under this section, any agreement entered into
3 pursuant to subsection (b) shall be enforceable only if the
4 person entering into the agreement with the owner or claimant of
5 unclaimed property notifies the owner or claimant in writing,
6 prior to entering into the agreement, that the State does not
7 impose a fee to file a claim for unclaimed property under
8 section 523A-15.

9 [~~(c)~~] (d) If an agreement covered by this section applies
10 to mineral proceeds and the agreement contains a provision to
11 pay compensation that includes a portion of the underlying
12 minerals or any mineral proceeds not then presumed abandoned,
13 the provision shall be void and unenforceable.

14 [~~(d)~~] (e) An agreement covered by this section that
15 provides for compensation that exceeds [~~twenty-five~~] ten per
16 cent of the total value of the property shall be unenforceable
17 except by the owner. An owner who has agreed to pay
18 compensation that exceeds [~~twenty-five~~] ten per cent of the
19 total value of the property, or the administrator on behalf of
20 the owner, may maintain an action to reduce the compensation to
21 an amount not to exceed [~~twenty-five~~] ten per cent of the total



1 value of the property. The court may award reasonable attorney's
2 fees to an owner who prevails in the action.

3 ~~(e)~~ (f) This section does not preclude an owner from
4 asserting that an agreement covered by this section is invalid
5 on grounds other than excessive or unjust compensation. The
6 court may award reasonable attorney's fees to an owner who
7 prevails in the action.

8 ~~(f)~~ (g) ~~[This]~~ Notwithstanding subsection (e), this
9 section does not apply to an owner's agreement with an attorney
10 to file a claim as to identified property or contest the
11 administrator's denial of a claim; provided that:

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

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

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 3. This Act, upon its approval, shall take effect
2 on July 1, 2014.



Report Title:

Unclaimed Property Trust Fund

Description:

Amends section 532A-25, Hawaii Revised Statutes, to reduce the maximum fee cap for non-attorney, professional finders from twenty-five per cent to ten per cent. Requires a person entering into an agreement with the owner or claimant to locate unclaimed property to notify the owner or claimant, prior to entering into the agreement, that the State does not impose a fee for filing a claim for unclaimed property. (SD1)

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

