



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1392

July 8, 2013

The Honorable Donna Mercado Kim,
President and Members
of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of
the House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

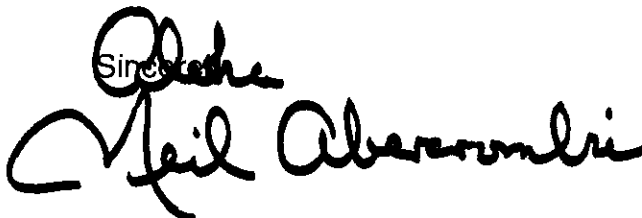
Re: Senate Bill No. 1265, S.D. 1, H.D. 1, C.D. 1

Senate Bill No. 1265, S.D. 1, H.D. 1, C.D. 1, entitled "A BILL FOR AN ACT RELATING TO CONTRACTS" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to increase the cap that professional locators, including attorneys, may charge to locate, deliver, recover, or assist in the recovery of property that is presumed to be abandoned from ten percent to twenty-five percent of the value of the property.

The fee structure of the bill is overly broad and should be refined to protect the public interest. I encourage the Legislature to further review this issue next session.

For the foregoing reasons, Senate Bill No. 1265, S.D. 1, H.D. 1, C.D. 1 will become law as Act 286, Session Laws of Hawaii 2013, effective July 9, 2013, without my signature.

A handwritten signature in black ink. The word "Signed" is written in a small, plain font above the signature. The signature itself is written in a cursive, flowing style and reads "Neil Abercrombie".

NEIL ABERCROMBIE
Governor, State of Hawaii

Permitted to become law without the

ACT 286

Governor's signature JUL 9 2013
THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

S.B. NO. 1265
S.D. 1
H.D. 1
C.D. 1

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.

APPROVED this day of , 2013

GOVERNOR OF THE STATE OF HAWAII