

Honolulu, Hawaii

APR 25 2013

RE: S.B. No. 1265
S.D. 1
H.D. 1
C.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1265, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONTRACTS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to specify 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.

Your Committee on Conference finds that Act 229, Session Laws of Hawaii 2012, limited compensation for the recovery of property presumed abandoned to ten percent of the total value of the property. Your Committee on Conference further finds that there are valid reasons for establishing a maximum fee structure for professional unclaimed property locators. However, the existing ten



percent limit on compensation for recovery creates a barrier for members of the public who wish to hire an attorney to assist with the recovery of unclaimed funds or property. This measure therefore increases the amount of enforceable compensation allowed from ten to twenty-five percent of the total value of the property for all owner's agreements, including agreements with attorneys, to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned.

Your Committee on Conference finds that a cap of twenty-five percent of the total value of the property for owner's agreements to locate and recover property ensures that members of the public are able to retain attorneys to handle the claims process, while also ensuring that the overall fees associated with this process remain at reasonable levels.

Your Committee on Conference also finds that there is merit in allowing judicial discretion to approve owner's agreements with attorneys that provide for compensation that exceeds twenty-five percent, if the agreement is with an attorney to maintain an action in Circuit Court.

Accordingly, your Committee on Conference has amended this measure by:

- (1) Inserting language to specify that an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim is exempt from the application of the entire section 523A-25, Hawaii Revised Statutes;
- (2) Inserting language to specify that an owner's agreement with an attorney to maintain an action in Circuit Court under section 523A-16, Hawaii Revised Statutes, may provide for compensation that exceeds twenty-five percent of the total value of the property only upon approval of the court; and
- (3) Inserting an effective date of July 1, 2013.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1265, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1265, S.D. 1, H.D. 1, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE



ANGUS L.K. MCKELVEY, Co-Chair

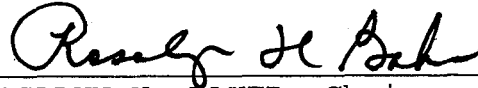


KARL RHOADS, Co-Chair

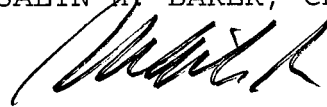


SCOTT Y. NISHIMOTO, Co-Chair

ON THE PART OF THE SENATE



ROSALYN H. BAKER, Chair



MAILE S.L. SHIMABUKURO, Co-Chair



