

STAND. COM. REP. NO. 539

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 1265

S.D. 1

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

Madam:

Your Committees on Commerce and Consumer Protection and  
Judiciary and Labor, to which was referred S.B. No. 1265 entitled:

"A BILL FOR AN ACT RELATING TO CONTRACTS,"

beg leave to report as follows:

The purpose and intent of this measure is to exempt 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 the entire section 523A-25, Hawaii  
Revised Statutes.

Your Committees received testimony in support of this measure  
from the Collection Law Section of the Hawaii State Bar  
Association.

Your Committees find 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  
Committees further find that the majority of property held by the  
Department of Budget and Finance is valued at less than \$5,000.  
If any difficulties are encountered when attempting to release  
property from the Department of Budget and Finance, the cost to  
hire an attorney will increase beyond the ten percent limit in all  
but the largest of cases. The ten percent limit on compensation  
for recovery therefore creates a barrier for members of the public  
who wish to hire an attorney to assist with the recovery of  
unclaimed funds or property.



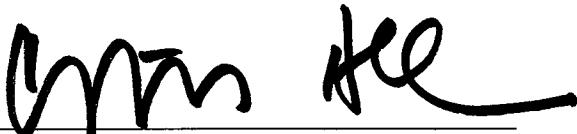
Your Committees understand that there are valid reasons for establishing a maximum ten percent fee structure for professional unclaimed property locators. Your Committees also understand the potential barriers to the public that result from extending the ten percent limit on compensation to attorneys. However, your Committees believe that it is more appropriate to increase the limit on compensation for attorneys to twenty-five percent of the total value of the property, rather than completely removing the limit on compensation. Amendments to this measure are therefore necessary to ensure that members of the public are still able to retain attorneys to handle the claims process, while also ensuring that attorneys' fees for this process remain at reasonable levels.

Accordingly, your Committees have amended this measure by:

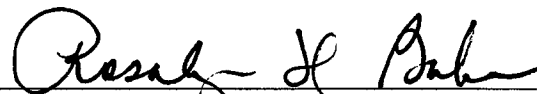
- (1) Specifying that an owner's agreement with an attorney to file a claim or contest the denial of a claim and that provides for compensation shall not exceed twenty-five percent of the total value of the property; and
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1265, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1265, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committees on Commerce and  
Consumer Protection and  
Judiciary and Labor,



CLAYTON HEE, Chair




ROSALYN H. BAKER, Chair





The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:
SB 1205	CPN/JDL	2/20/13
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
HEE, Clayton (C)	✓	
SHIMABUKURO, Maile S.L. (VC)	✓	
GABBARD, Mike	✓	
IHARA, Jr., Les	✓	
SLOM, Sam		✓
<b>TOTAL</b>	4	1
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
<b>Distribution:</b>		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
		Goldenrod Committee File Copy

\*Only one measure per Record of Votes