

A Bill for an Act Relating to Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 523A-25, Hawaii Revised Statutes, is amended to read as follows:

“§523A-25 Agreement to locate property. (a) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned shall be void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is twenty-four months after the date the property is paid or delivered to the administrator. ~~[This subsection does not apply to an owner’s agreement with an attorney to file a claim as to identified property or contest the administrator’s denial of a claim.]~~

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

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

(d) An agreement covered by this section that provides for compensation that exceeds ~~[ten]~~ twenty-five per cent of the total value of the property shall be unenforceable except by the owner. An owner who has agreed to pay compensation that exceeds ~~[ten]~~ twenty-five per cent of the total value of the property, or the administrator on behalf of the owner, may maintain an action to reduce the compensation to an amount not to exceed ~~[ten]~~ twenty-five per cent of the total value of the property. The court may award reasonable attorney’s fees to an owner who prevails in the action.

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

(f) This section does not apply to an owner’s agreement with an attorney to file a claim as to identified property or contest the administrator’s denial of a claim; provided that:

- (1) An owner’s agreement with an attorney covered by this subsection that provides for compensation shall not exceed twenty-five per cent of the total value of the property, except as provided in paragraph (2); and
- (2) An owner’s agreement with an attorney to maintain an action in circuit court under section 523A-16 may provide for compensation that exceeds twenty-five per cent of the total value of the property only upon approval of the court.”

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

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

(Became law on July 9, 2013, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)