

S.B. NO. 2808

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

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

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

21 (f) [~~This~~] Notwithstanding subsection (d), this section
22 does not apply to an owner's agreement with an attorney to file

S.B. NO. 2808

1 a claim as to identified property or contest the administrator's
2 denial of a claim; provided that:

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

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

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 Statutory material to be repealed is bracketed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

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

16
17 INTRODUCED BY: 

18 BY REQUEST

S.B. NO. 2808

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 percent to ten percent.

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

SB. NO. 2808

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE UNCLAIMED PROPERTY TRUST FUND.

PURPOSE: To decrease the compensation cap for non-attorney professional locators from twenty-five percent to ten percent of the total value of property on an owner's agreement to locate and recover unclaimed property.

MEANS: Amend section 523A-25(d), Hawaii Revised Statutes ("HRS").

JUSTIFICATION: Currently, section 523A-25(d) sets the compensation cap for professional locators of unclaimed property at twenty-five percent of the total value of property on an owner's agreement to locate and recover abandoned property. The twenty-five percent compensation cap also pertains to attorneys who assist owners with their claims. Unlike attorneys, the professional locators do not provide specialized legal assistance to owners to warrant compensation of up to twenty-five percent. It would be in the best interest of owners of unclaimed property to reduce the fees of professional locators to ten percent, which was the cap for professional locators prior to the enactment of Act 286, Session Laws of Hawaii 2013. The Department of Budget and Finance does not object to the twenty-five percent cap currently in place for attorneys due to the legal work provided.

Impact on the public: Owners of unclaimed property will then be able to retain their fair and reasonable share of the total value of the property.

SB. NO. 2808

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: n/a

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.