

**393.117 Conditions governing enforceability of agreements to locate property presumed abandoned.**

- (1) 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, is void and unenforceable if it was entered into during the period commencing on the date that the property was presumed abandoned and extending to a time that is twenty-four (24) months after the date that the property is paid or delivered to the department. This subsection shall 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.
- (2) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property and that is not in violation of subsection (1) of this section, is enforceable only if:
  - (a) The agreement is in writing;
  - (b) The agreement provides that the fee or compensation agreed upon is an amount not more than ten percent (10%) of the value of the property collected;
  - (c) The agreement clearly sets forth the nature of the property and the services to be rendered;
  - (d) The agreement is signed by the apparent owner; and
  - (e) The agreement states the value of the property before and after the fee or other compensation has been deducted.
- (3) An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has agreed to pay compensation that is unconscionable, or the administrator on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorney's fees to an owner who prevails in the action.
- (4) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than unconscionable compensation.
- (5) An advertisement, a written communication, or an agreement concerning the location, delivery, recover, or assistance in the recovery of property reported under this chapter shall contain a provision stating that, by law, any contract provision requiring the payment of a fee for finding property that has been held by the administrator for less than twenty-four (24) months is void and not enforceable, and that fees are limited to an amount not more than ten percent (10%) of the value of the property collected.

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**History:** Created 1998 Ky. Acts ch. 560, sec. 4, effective July 15, 1998.