

AMENDED IN SENATE SEPTEMBER 3, 2009

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 26, 2009

AMENDED IN SENATE JUNE 16, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 226

**Introduced by Assembly Member Ruskin
(Coauthor: Assembly Member Saldana)**

February 4, 2009

An act to amend Section 30823 of, and to add Section 30821 to, the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 226, as amended, Ruskin. Coastal resources: California Coastal Act of 1976: enforcement.

~~(1) The~~

The California Coastal Act of 1976 requires a person undertaking development in the coastal zone to obtain a coastal development permit in accordance with prescribed procedures. Existing law authorizes the superior court to impose civil liability on a person who performs or undertakes development that is in violation of the act or that is inconsistent with a previously issued coastal development permit, and on a person who violates the act in any other manner and authorizes a person to maintain an action for recovery of these civil penalties.

This bill would provide that a person who violates the act is subject to an administrative civil penalty that may be imposed by the California Coastal Commission by a majority vote of the commissioners, upon consideration of various factors, in a public hearing, as specified, in an amount no less than \$5,000 and no more than \$50,000 for each violation.

This bill would provide that a person, as defined, shall not be subject to both monetary civil liability imposed by the commission and monetary civil liability imposed by the superior court for the same act or failure to act. In the event that a person who is assessed a penalty by the commission fails to pay the penalty, fails to comply with a restoration or cease and desist order, or challenges any of these actions in a court of law, the commission may maintain an action or otherwise engage in judicial proceedings to enforce those requirements and the court may grant any relief, as specified. This bill would also allow the commission to record a lien on the property of a violator in the amount of the penalty assessed by the commission if the violator fails to pay the fine.

~~(2) The act also requires that all funds derived from the payment of a penalty are to be deposited into the Violation Remediation Account of the Coastal Conservancy Fund, until appropriated by the Legislature, for purposes of carrying out the act.~~

~~This bill would instead require that all penalties derived from the payment of a penalty be deposited into the Coastal Act Services Fund, until appropriated by the Legislature, for the purposes of carrying out the act.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30821 is added to the Public Resources
- 2 Code, to read:
- 3 30821. (a) In addition to any other penalties imposed pursuant
- 4 to this division, a person, including a landowner, who is in violation
- 5 of a provision of this division is subject to an administrative civil
- 6 penalty that may be imposed by the commission in an amount not
- 7 less than five thousand dollars (\$5,000) and not to exceed fifty
- 8 thousand dollars (\$50,000) for each violation.
- 9 (b) All penalties imposed pursuant to subdivision (a) shall be
- 10 imposed by majority vote of the commissioners present in a duly

1 noticed public hearing in compliance with the requirements of
2 Section 30810, 30811, or 30812.

3 (c) In determining the amount of civil liability, the commission
4 shall take into account the factors set forth in subdivision (c) of
5 Section 30820.

6 (d) A person shall not be subject to both monetary civil liability
7 imposed under this section and monetary civil liability imposed
8 by the superior court for the same act or failure to act. In the event
9 that a person who is assessed a penalty under this section fails to
10 pay the administrative penalty, otherwise fails to comply with a
11 restoration or cease and desist order issued by the commission in
12 connection with the penalty action, or challenges any of these
13 actions by the commission in a court of law, the commission may
14 maintain an action or otherwise engage in judicial proceedings to
15 enforce those requirements and the court may grant any relief as
16 provided under this chapter.

17 (e) If a person fails to pay a penalty imposed by the commission
18 pursuant to this section, the commission may record a lien on the
19 property in the amount of the penalty assessed by the commission.
20 This lien shall have the force, effect, and priority of a judgment
21 lien.

22 (f) In enacting this section, it is not the intent of the Legislature
23 that unintentional, minor violations that only cause de minimis
24 harm should lead to civil penalties, if the violator has acted
25 expeditiously to correct the violation consistent with this act.

26 (g) "Person," for the purpose of this section, does not include
27 a local government, a special district, or an agency thereof when
28 acting in a legislative or adjudicative capacity.

29 ~~SEC. 2. Section 30823 of the Public Resources Code is~~
30 ~~amended to read:~~

31 ~~30823. All funds derived under this article shall be deposited~~
32 ~~in the Coastal Act Services Fund, established pursuant to~~
33 ~~subdivision (a) of Section 30620.1, until appropriated by the~~
34 ~~Legislature, for the purpose of carrying out this division.~~