

AMENDED IN SENATE AUGUST 26, 2013
AMENDED IN SENATE AUGUST 14, 2013
AMENDED IN SENATE JULY 8, 2013
AMENDED IN ASSEMBLY MAY 28, 2013
AMENDED IN ASSEMBLY MAY 13, 2013
AMENDED IN ASSEMBLY APRIL 4, 2013
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 976

Introduced by Assembly Member Atkins
(Principal coauthor: Assembly Member Stone)
(~~Coauthor: Senator~~ *Coauthors: Senators DeSaulnier and Jackson*)

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 976, as amended, Atkins. Coastal resources: California Coastal Act of 1976: enforcement: penalties.

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.

This bill would authorize, until January 1, 2019, the California Coastal Commission to impose upon a person who violates the act an administrative civil penalty by a majority vote of the commissioners, upon consideration of various factors, and in an amount not to exceed 75% of the maximum civil penalty that may be imposed in the superior court, as specified. *The bill would require the penalty to be assessed for each day the violation persists, but for no more than 5 years.*

This bill would prohibit a person, as defined, from being subject to both this monetary civil liability imposed by the commission and a monetary civil liability imposed by the superior court for the same act or failure to act. The bill, 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, would authorize the commission to maintain an action or otherwise engage in judicial proceedings to enforce those requirements and would authorize the court to grant 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 penalty. The bill would prohibit the assessment of administrative penalties if the homeowner corrects the violations, as specified. *The bill would specify that the repeal of the authority to impose a penalty would not terminate the authority of the commission to impose and collect an administrative penalty for a violation for which the commission commenced an enforcement proceeding on a date prior to the repeal date.*

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 to exceed 75 percent of the amount of the maximum penalty
- 8 authorized pursuant to subdivision (b) of Section 30820 for each

1 violation. *The administrative civil penalty shall be assessed for*
2 *each day the violation persists, but for no more than five years.*

3 (b) All penalties imposed pursuant to subdivision (a) shall be
4 imposed by majority vote of the commissioners present in a duly
5 noticed public hearing in compliance with the requirements of
6 Section 30810, 30811, or 30812.

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

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

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

26 (f) In enacting this section, it is the intent of the Legislature to
27 ensure that unintentional, minor violations of this division that
28 only cause de minimis harm will not lead to the imposition of civil
29 penalties if the violator has acted expeditiously to correct the
30 violation.

31 (g) “Person,” for the purpose of this section, does not include
32 a local government, a special district, or an agency thereof when
33 acting in a legislative or adjudicative capacity.

34 (h) Administrative penalties pursuant to subdivision (a) shall
35 not be assessed if the property owner corrects the violation
36 consistent with this division within 30 days of receiving written
37 notification from the commission regarding the notification, and
38 if the alleged violator can correct the violation without undertaking
39 additional development that requires a permit under this division.

1 This subdivision shall not apply to violations of previous permit
2 conditions.

3 (i) The commission shall prepare and submit, pursuant to Section
4 9795 of the Government Code, a report to the Legislature by
5 January 15, 2018, that includes all of the following:

6 (1) The number of new violations reported annually to the
7 commission from January 1, 2014, to December 31, 2017,
8 inclusive.

9 (2) The number of violations resolved from January 1, 2014, to
10 December 31, 2017, inclusive.

11 (3) The number of administrative penalties issued pursuant to
12 this section, the dollar amount of the penalties, and a description
13 of the violations from January 1, 2014, to December 31, 2017,
14 inclusive.

15 (j) ~~This~~ (1) *Except as provided in paragraph (2), this section*
16 *shall remain in effect only until January 1, 2019, and as of that*
17 *date is repealed, unless a later enacted statute, that is enacted before*
18 *January 1, 2019, deletes or extends that date.*

19 (2) *The repeal of this section does not terminate the authority*
20 *of the commission to impose and collect an administrative penalty*
21 *for a violation for which the commission commenced an*
22 *enforcement proceeding on a date prior to January 1, 2019.*