

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**

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

February 4, 2009

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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 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  
11 noticed public hearing *in compliance with the requirements of*  
12 *Section 30810, 30811, or 30812.*

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

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

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

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

25 (g) “Person,” for the purpose of this section, does not include  
26 ~~a local governments, government, a special districts, or agencies~~  
27 ~~district, or an agency~~ thereof when acting in ~~their~~ a legislative or  
28 adjudicative ~~capacities~~ 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.