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AB-2485 Code enforcement: financially interested parties. (2017-2018)

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Assembly Bill No. 2485

CHAPTER 263

An act to add Chapter 21 (commencing with Section 26250) to Division 20 of the Health and Safety Code, relating to code enforcement.

[Approved by Governor September 05, 2018. Filed with Secretary of State September 05, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2485, Chau. Code enforcement: financially interested parties.

Existing law provides for code enforcement officers employed by cities and counties who have enforcement authority for health, safety, and welfare requirements. Existing law also provides for county and city health officers to enforce orders and ordinances of the governing body of the county or city, or state statutes pertaining to public health.

This bill would prohibit a local official, as defined, who inspects a commercial property or business for compliance with a state statute or regulation or local ordinance from being accompanied during the inspection by a person with a potential financial interest in the outcome of the inspection, as defined, unless the person is the owner of the property or business, is the agent or representative of the owner, is a person who has, or operates under, a specified existing contract with the local government who has been directed by a local official to perform services at the property or business, or is a contractor or consultant, or a designated representative of a contractor or consultant, that is on a publicly available list of qualified bidders that may provide inspection, abatement, or remediation services to, and receive compensation for those services from, the local government, as specified. The bill would additionally prohibit a person who has entered into a contract with a local government for inspection, abatement, or remediation services, who inspects a commercial property or business for compliance with a state statute or regulation or local ordinance without the presence of a local official from soliciting or receiving compensation from the owner to remediate any potential violations of a state statute or regulation or local ordinance found in the course of the inspection, as specified.

The bill would include findings that this bill addresses a matter of statewide concern rather than a municipal affair.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 21 (commencing with Section 26250) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 21. Prohibition on Financially Interested Individuals in Local Inspections

26250. (a) Except as provided in subdivision (c), a local official who inspects a commercial property or business for compliance with a state statute or regulation or local ordinance shall not, during the inspection, be accompanied by a person with a potential

financial interest in the outcome of the inspection, unless the person is any one of the following:

(1) The owner of the property or business.

(2) The agent or representative of the owner of the property or business.

(3) A person who has, or operates under, an existing contract with the local government of the local official to provide inspection, abatement, legal, or remediation services and has been directed by a local official to perform services at that particular inspected property or business.

(4) A contractor or consultant, or a designated agent of that contractor or consultant, that is on a publicly available list of qualified bidders that may provide inspection, abatement, or remediation services to, and receive compensation for those services from, the local government. A person who accompanies a local official pursuant to this paragraph shall not solicit or receive compensation from the owner to remediate any potential violations of a state statute or regulation or local ordinance found in the course of the inspection.

(b) Except as provided in subdivision (c), a person who has entered into a contract with a local government for inspection, abatement, or remediation services, who inspects a commercial property or business for compliance with a state statute or regulation or local ordinance without the presence of a local official shall not solicit or receive compensation from the owner to remediate any potential violations of a state statute or regulation or local ordinance found in the course of the inspection.

(c) Subdivisions (a) and (b) shall not apply to an inspection conducted after the local official or the local official's designee has provided notice in writing to the owner of the property or business identifying specific violations of state statute or regulation or local ordinance existing upon the property and the specific actions required to correct those violations.

(d) For purposes of this section, the following definitions shall apply:

(1) "Agent or representative" may include, but is not limited to, a licensed contractor that is performing work on, or has completed work on, the commercial property or business that is the subject of the inspection.

(2) "Local government" means a city, including a charter city, county, or city and county.

(3) "Local official" means a code enforcement officer, as defined in Section 829.5 of the Penal Code, of a city, county, or a city and county, a county health officer described in Article 1 (commencing with Section 101025) of Chapter 2 of Part 3 of Division 101, a city health officer described in Article 4 (commencing with Section 101450) of Chapter 4 of Part 3 of Division 101, or the designated agent of those health officers.

(4) "Person with a potential financial interest in the outcome of the inspection" is any of the following:

(A) A person who makes an offer to the owner to physically remediate for compensation potential violations of a state statute or regulation or local ordinance found in the course of an inspection by a local official.

(B) A person who offers to provide or provides compensation to a local official in exchange for recommending the remediation services of a specific person, providing the contact information for those services to the owner or agent of the owner of the premises or business inspected, or providing the name of the owner of the property or business or agent or representative of the owner to the person who offers the remediation services.

(e) This section does not affect the ability of a local government to recover the costs of any abatement or remediation performed by or pursuant to the authority of the local government in accordance with applicable law.

SEC. 2. The Legislature finds and declares that Section 1 of this act adding Section 26250 to the Health and Safety Code addresses a matter of statewide concern, rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.