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SB-433 California Coastal Act of 1976: enforcement: penalties. (2021-2022)

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Senate Bill No. 433

CHAPTER 643

An act to add Section 30821.3 to the Public Resources Code, relating to coastal resources.

[Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 433, Allen. 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. Existing law authorizes the California Coastal Commission to impose specified administrative civil penalties on a person, including a landowner, who is in violation of the public access provisions of the act for each violation of the act.

This bill would additionally authorize the commission to impose specified administrative civil penalties on a person, including a landowner, who is in violation of any provision of the act other than public access. The bill would require the commission staff to annually prepare and present a written report to the full commission that includes specified information related to the imposition of those penalties and to annually provide the written report to the Legislature, as prescribed.

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

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

SECTION 1. Section 30821.3 is added to the Public Resources Code, to read:

30821.3. (a) In addition to any other penalties imposed pursuant to this division, a person, including a landowner, who is in violation of any provision of this division other than public access, including, but not limited to, damage to archaeological and wetlands resources and damage to environmentally sensitive habitat areas, is subject to an administrative civil penalty that may be imposed by the commission in an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation. The administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.

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

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

(d) A person shall not be subject to both monetary civil liability imposed under this section and monetary civil liability imposed by the superior court for the same act or failure to act. If a person who is assessed a penalty under this section fails to pay the administrative penalty, otherwise fails to comply with a restoration or cease and desist order issued by the commission in connection with the penalty action, or challenges any of these actions by the commission 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 provided under this chapter.

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

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

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

(h) Administrative penalties pursuant to subdivision (a) shall not be assessed if the property owner corrects the violation consistent with this division within 60 days of receiving written notification from the commission regarding the violation, and if the alleged violator can correct the violation without undertaking additional development that requires a permit under this division. This 60-day timeframe for corrective action does not apply to previous violations of permit conditions incurred by a property owner.

(i) The commission staff shall prepare and present a written report to the full commission at its first public hearing after January 1, 2024, and annually thereafter at the first hearing of the year, that includes all of the following related to the implementation of this section:

(1) The number and type of new violations investigated and identified that were reported the previous year.

(2) The number of violations resolved from the previous year, including a description of those resolved without the imposition of an administrative civil penalty.

(3) The number of administrative penalties issued pursuant to this section, the dollar amount of the penalties, and a description of the violations that resulted in the imposition of a penalty the previous year.

(4) The number of days from initial notice to resolution of violations for those resolved in the previous year.

(j) The commission staff shall provide the written report described in subdivision (i) annually to the relevant policy and budget committees in both houses of the Legislature.

(k) Revenues derived pursuant to this section shall be deposited into the Violation Remediation Account of the Coastal Conservancy Fund and expended pursuant to Section 30823.

(l) The commission shall provide an opportunity for a local government with a certified local coastal program to enforce violations of its building codes in compliance with that local coastal program.

(m) Judicial review of actions taken by the commission pursuant to this section shall be in accordance with Article 1 (commencing with Section 30800).