

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 632 (Hart) – As Introduced February 13, 2025

SUBJECT: Local ordinances: administrative fines or penalties.

SUMMARY: Allows local agencies to file certain documents related to specified administrative fines or penalties with a superior court and requires the court clerk to enter judgment immediately, and clarifies that local agencies may collect administrative fines or penalties for violations of any ordinance by recording a judgment lien on property that is in violation.

Specifically, **this bill:**

- 1) Provides the following for an administrative fine or penalty described in 2), below:
 - a) A local agency may file with the clerk of the superior court of any county a certified copy of a final administrative order or decision of the local agency that directs the payment of an administrative fine or penalty and, if applicable, a copy of an order of the superior court rendered on an appeal from the local agency's decision or denying a petition for a writ of administrative mandate.
 - b) Judgment shall be entered immediately by the clerk in conformity with the decision or order. A fee shall not be charged by the clerk of the superior court for the performance of an official service required in connection with the entry of this judgment.
 - c) This process may only occur after the exhaustion of the administrative and review procedures that apply to the imposition of the administrative fines or penalties pursuant to existing law.
- 2) Limits the provisions in 1), above, to an administrative fine or penalty that is imposed for a violation of any of the following:
 - a) Any law, regulation, or local ordinance regulating or prohibiting the cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, delivering, or distributing of cannabis or cannabis products, as specified.
 - b) The State Housing Law and regulations or ordinances adopted pursuant to that law, as specified.
 - c) Any law, regulation, or local ordinance that ensures the habitability of rental housing, as specified.
 - d) Any law, regulation, or local ordinance relating to fire hazards.

- 3) Allows a local agency, by ordinance, to establish a procedure to collect administrative fines or penalties for a violation of any ordinance by lien upon the parcel of land on which the violation occurred.
- 4) Provides that the ordinance specified in 3), above, shall require service of both of the following upon the parties set forth in 6), below:
 - a) The initial notice of violation or other charging document commencing the administrative procedures for imposition of administrative fines or penalties.
 - b) A notice of lien, which shall be served or mailed after the exhaustion of the administrative and review procedures provided in existing law, as specified, and before the recordation of the lien.
- 5) Allows notices specified in 4) above, to be served by first-class mail or personal service. In case of service by mail, the notice or other paper shall be deposited in a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to each party set forth in 6), below. Service by mail is complete at the time of the deposit in the mail facility, and any period of notice set forth in this bill or an ordinance adopted hereunder, and any right or duty to do any act or make any response within any period after service, shall not be extended by reason of service by mail. Section 1013 of the Code of Civil Procedure does not apply to extend the time for giving any notice or performing any act under this bill or existing law governing the imposition of administrative fines or penalties or an ordinance adopted under these provisions.
- 6) Requires notices specified in 4), above, to be served or mailed to both of the following:
 - a) The owner of record of the parcel of land on which the violation occurred, based on the last equalized assessment roll or the supplemental roll, whichever is more current.
 - b) The owner of an encumbrance of record on the property.
- 7) Requires the parties set forth in 6), above, to be entitled to seek administrative review of the administrative fines or penalties in accordance with the procedures set forth in the ordinance and to contest a final administrative order or decision in accordance with applicable law, as specified.
- 8) Provides that, once a copy of the notice of lien, as described in 4) above, is recorded in the county recorder's office, the lien shall have the same force, effect, and priority as a judgment lien.
- 9) Provides that the remedies or penalties provided by this section are cumulative of the remedies or penalties available under other law.

FISCAL EFFECT: None

COMMENTS:

- 1) **Background.** A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. This “police power” provides the right to adopt and enforce zoning regulations, as long as they do not conflict with state laws.

Current law allows counties and cities to establish ordinances, and makes violations of ordinances misdemeanors, unless the county or city makes them infractions. The violation of an ordinance may be prosecuted by county or city authorities in the name of the people of the State of California, or redressed by civil action. Current law outlines the following fine structure for ordinance violations, and for building and safety code violations, that are determined to be infractions:

Number of violations within specified time periods	Amount of fine for ordinance violations that are infractions	Amount of fine for building and safety code violations that are infractions
First violation	Fine does not exceed \$100	Fine does not exceed \$130
Second violation within one year of first violation	Fine does not exceed \$200	Fine does not exceed \$700
Third violation within one year of first violation	Fine does not exceed \$500	Fine does not exceed \$1,300

For building and safety code violations that are infractions, the fine can be increased to \$2,500 for each additional violation of the same ordinance within two years of the first violation, if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

The law also includes additional provisions for violations of event permits and short-term rental ordinances that are infractions, as well as a process for granting a hardship waiver in specified instances where the fine would impose an undue financial burden on the responsible party.

- 2) **Administrative Alternative.** As an alternative to the court process, a local agency can make any violation of any of its ordinances subject to an administrative fine or penalty. This provision was enacted in 1995 to relieve the courts of some of these cases and offer local governments a faster, easier, and less costly means of pursuing remedies for ordinance violations.

In order to make an ordinance violation subject to an administrative fine or penalty, the local agency must adopt an ordinance specifying the administrative procedures that govern the imposition, enforcement, collection, and administrative review of the fines or penalties. A person may appeal such fines or penalties in superior court within 20 days after service of a

final administrative order or decision. Local agencies must pursue a civil court proceeding to collect fines and penalties that are not secured via the administrative process.

Current law requires these administrative procedures to grant a person responsible for a continuing violation a reasonable time to remedy the violation before the local agency may impose fines or penalties when the violation pertains to building, plumbing, electrical, or other similar structural and zoning issues that do not create an immediate danger to health or safety.

- 3) **Liens.** Local governments use liens to collect fines and penalties, based on the broad authorization to adopt procedures for collection of penalties in law, as well as their Constitutional police power. This lien authority, while not explicitly authorized in statute, has been the subject of litigation. Courts have generally upheld this authority (see, for example, *City of Santa Paula v. Narula* (2003) 114 Cal.App.4th 485). However, one unpublished (and therefore non-precedential) case states, “California law does not authorize cities to collect nuisance fines or penalties by attaching a lien or imposing an assessment,” largely on the basis that several bills to expressly grant such authority have previously been vetoed. (*Mechammil v. City of San Jacinto* (9th Cir. 216) 653 Fed.Appx. 562.) The main difference between these cases is that both Mechammil and the vetoed bills it cited concerned efforts to collect penalties through *superiority* special assessment liens that are paid before ordinary liens.
- 4) **Cannabis Regulation.** On November 8th, 2016, California voters approved Proposition 64 – the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) – which legalized the recreational use of cannabis by adults age 21 and older. AUMA provides for the licensure and regulation of commercial adult cannabis activities by various state agencies and imposes an excise tax and a cultivation tax on cannabis and cannabis products. Proposition 64 was subsequently amended to clarify certain provisions and establish a single regulatory scheme for both medical and recreational cannabis activity and commerce, called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

MAUCRSA establishes a three-tier system of licensing for commercial cannabis activity, including production, distribution, and retail sale. Entities engaged in commercial cannabis activity must possess licenses to conduct particular activities, issued by the Department of Cannabis Control, which administers and enforces MAUCRSA. Current law establishes 20 types of cannabis licenses, including subtypes, for cultivation, manufacturing, testing, retail, distribution, and microbusiness and requires each licensee (except for testing laboratories) to clearly designate whether their license is for adult-use or medicinal cannabis.

- 5) **MAUCRSA and Local Agencies.** MAUCRSA grants local governments wide latitude to regulate commercial cannabis activity within their jurisdictions. Specifically, MAUCRSA:
 - a) Allows cities and counties to regulate or entirely prohibit commercial cannabis activity within their boundaries.
 - b) Prohibits state licensing authorities from approving an application for a license if the application would violate a local ordinance, and allows local governments to review applications for state licenses and to deny those applications if they are in conflict with local laws.

- c) States its provisions shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses, including local zoning and land use ordinances and business license requirements, or limit any law enforcement or local permitting activities.

MAUCRSA also states its provisions, and any regulations promulgated by state licensing agencies, shall not be deemed to limit the authority or remedies of a city or county under any law, including local governments' police powers. However, the Legislature prohibited local governments from banning, or effectively banning, the delivery of medicinal cannabis to patients or primary caregivers within their jurisdictions.

- 6) **Fines and Penalties for Cannabis Cultivation.** In response to illegal cannabis growing operations around the state, the Legislature approved AB 2164 (Cooley), Chapter 316, Statutes of 2018. AB 2164 allowed local agencies, via ordinance, to immediately impose administrative fines or penalties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis. The bill required such an ordinance to provide for a reasonable period of time for the correction or remedy of the violation before imposing administrative fines or penalties if all of the following are true:

- a) A tenant is in possession of the property that is the subject of the administrative action.
- b) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis.
- c) The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

AB 1684 (Maienschein), Chapter 477, Statutes of 2023, further strengthened local penalty and enforcement authority for unlicensed cannabis activity. AB 1684 expanded the ability of local governments to immediately impose fines or penalties to also include other types of unlicensed cannabis activities: manufacturing, processing, distribution, or retail sale. It also granted local agencies the ability to immediately impose the administrative fines and penalties upon the property owner and upon each owner of the occupant business entity engaging in unlicensed commercial cannabis activity, and to hold them jointly and severally liable for the administrative fines and penalties.

Under AB 1684, local agencies can also refer cannabis enforcement cases to the Attorney General. Finally, AB 1684 caps the immediately-imposed fines and penalties at \$1,000 per violation and \$10,000 per day, but makes it clear larger fines permitted elsewhere in law can still be imposed.

- 7) **Bill Summary.** This bill changes the ability of local agencies to collect administrative fines or penalties. These include changes that apply only to a specified set of fines or penalties, and changes that apply to any administrative fine or penalty.

This bill allows local agencies to pursue an alternative procedure only for violations of the following:

- a) Any law, regulation, or local ordinance regulating or prohibiting the cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, delivering, or distributing of cannabis or cannabis products, including, but not limited to, an ordinance adopted pursuant to MAUCRSA, as specified.
- b) State Housing Law and regulations or ordinances adopted pursuant to that law.
- c) Any law, regulation, or local ordinance that ensures the habitability of rental housing, as specified.
- d) Any law, regulation, or local ordinance relating to fire hazards.

For this limited group of fines or penalties, this bill allows a local agency to file with the clerk of the superior court of any county a certified copy of a final decision of the local agency that directs the payment of the administrative fine or penalty and, if applicable, a copy of an order of the superior court rendered on an appeal from the local agency's decision or denying a petition for a writ of administrative mandate. Judgment must be entered immediately by the clerk in conformity with the decision or order. This process may only occur after the exhaustion of the administrative and review procedures that apply to the imposition of the administrative fines or penalties pursuant to existing law.

This bill also allows a local agency to establish, by ordinance, a procedure to collect *any* administrative fines or penalties by attaching a lien on the parcel of land on which the violation occurred. The ordinance must require service of two items:

- a) An initial notice of violation or other charging document commencing the administrative procedures for imposition of administrative fines or penalties.
- b) A notice of lien, which shall be served or mailed after the exhaustion of the administrative and review procedures provided in existing law, and before the recordation of the lien.

These notices must be served or mailed to both of the following:

- a) The owner of record of the parcel of land on which the violation occurred, based on the last equalized assessment roll or the supplemental roll, whichever is more current.
- b) The owner of an encumbrance of record on the property.

This bill requires these parties to be entitled to seek administrative review of the administrative fines or penalties in accordance with the procedures set forth in the ordinance and to contest a final administrative order or decision in accordance with applicable law. Once a copy of the notice of lien is recorded in the county recorder's office, the lien shall have the same force, effect, and priority as a judgment lien.

This bill is sponsored by the California Association of Code Enforcement Officers, the County of Santa Clara, and the Rural County Representatives of California.

- 8) **Author's Statement.** According to the author, "AB 632 is necessary to provide local governments with a more effective way to collect existing penalties. It includes due process protections, ensuring individuals receive notice, can contest fines through administrative review, and have the right to appeal before enforcement actions like liens or judgments take effect. These safeguards ensure fairness while helping local governments address violations in housing, fire safety, and unlicensed cannabis activities."
- 9) **Technical Amendment.** In order to ensure this bill operates as intended, the Committee may wish to adopt the following technical amendment:
- 53069.4. (e) (1) For an administrative fine or penalty described in paragraph (2), after the exhaustion of the administrative and review procedures provided in this section, the local agency may file a certified copy of a final administrative order or decision of the local agency that directs the payment of an administrative fine or penalty and, if applicable, a copy of an order of the superior court rendered on an appeal from the local agency's decision or denying a petition for a writ of administrative mandate with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. A fee shall not be charged by the clerk of the superior court for the performance of an official service required in connection with the entry of judgment pursuant to this ~~section~~ subdivision.
- 10) **Related Legislation.** SB 757 (Richardson) allows, until January 1, 2035, a city or county to collect fines for specified violations related to nuisance abatement using a nuisance abatement lien or a special assessment. SB 757 is pending in the Senate Judiciary Committee.
- 11) **Previous Legislation.** AB 491 (Wallis) of 2024 would have made several similar changes to a local agency's ability to collect administrative fines or penalties. AB 491 was held in the Senate Judiciary Committee.

AB 1448 (Wallis), Chapter 843, Statutes of 2023, originally contained several provisions similar to AB 491, including provisions removing a petition for a writ of mandate to challenge cannabis violations, allowing local agencies to collect specified civil penalties as administrative penalties, and granting the ability to use a special assessment lien to collect fines and penalties. These provisions were removed from the bill, leaving only changes that redirected some civil penalties to local treasuries when a local prosecutor brings an action for unlicensed cannabis activity.

SB 1416 (McGuire) of 2018 would have allowed cities and counties to recover fines through nuisance abatement liens and special assessments until January 1, 2024. SB 1416 was vetoed with the following message: "I am returning Senate Bill 1416 without my signature. This bill allows, until January 1, 2024, cities and counties to recover fines related to nuisance abatement through liens and special assessments. I vetoed a similar bill in 2011 because I was concerned that allowing local governments to collect fines by assessing them against an owner's property reduced important due process protections. My thoughts on the matter have not changed."

AB 345 (Ridley-Thomas) of 2017 would have expanded nuisance abatement liens and special assessments to include administrative penalties, and would have increased the

maximum administrative fines for violations of city building codes and safety standards. AB 345 was subsequently amended for an unrelated purpose.

AB 129 (Beall) of 2011 would have allowed local governments to use special assessments for unpaid fines or penalties after following specified procedures. AB 129 was vetoed with the following message: “I am returning Assembly Bill 129 without my signature. At a time when property owners are struggling to pay their mortgages, this bill would weaken the due process requirements for local building departments to obtain property liens. Local governments already have a fair process in place, and I see no reason to change it.”

AB 2317 (Saldana) of 2010 would have allowed local governments to use nuisance abatement liens and special assessments to collect administrative penalties, with a sunset date of January 1, 2014. AB 2317 was vetoed with the following message: “I am returning Assembly Bill 2317 without my signature. It is important that the due process rights of homeowners are balanced against a local government's right to collect a nuisance abatement fine. The current system that requires a local government to seek judicial approval to impose a lien properly balances these opposing interests. For this reason I am unable to sign this bill.”

- 12) **Arguments in Support.** The Rural County Representatives of California, co-sponsor of this measure, write, “Counties and cities are currently authorized to enforce local ordinances through several methods, including imposing administrative fines and penalties that may be collected through ordinary priority real property liens, as established in *City of Santa Paula v. Narula* (2003). However, the existing penalty statutes were primarily designed for routine zoning and building violations, and these processes are not always well suited to address certain serious code violations like large-scale illegal commercial cannabis operations, imminent fire hazards, or dangerously substandard housing conditions. Local governments often struggle to enforce serious violations, including state housing laws, fire safety regulations, and unlicensed cannabis activity, because the current code enforcement mechanisms are insufficient when dealing with persistent bad actors that often have numerous other violations and liens on the property and are consequently undeterred by existing enforcement mechanisms.

“To enhance code enforcement mechanism for serious violations, (this) bill grants local agencies additional tools to collect penalties imposed for certain serious violations, once the administrative review process (including judicial review, if sought) is concluded. Specifically, penalties for these violations could be entered as a money judgment, thereby providing the full range of enforcement mechanisms available for judgment under the Code of Civil Procedure. This model is currently used in the Food and Ag. code for pesticide violations (among other things), and can be effective in cases where existing code enforcement mechanisms may be insufficient (such as slumlords or illicit cannabis operators whose assets are hidden). Given this mechanism is an enhanced penalty collections option, it would be limited to serious violations that impact community health and safety, specifically, only those violations that pertain to cannabis, State Housing Law and laws pertaining to the safety of rental housing, and fire hazards.

“Additionally, (this bill) would simply codify existing caselaw, to provide clarity and avoid unnecessary disputes. Local governments already use ordinary priority liens to collect fines and penalties, based on the broad authorization to adopt ‘procedures that shall govern

the...collection' of administrative penalties, as well as their Constitutional police power. This lien authority, while not explicitly mentioned in statute, has been recognized by California caselaw (see, for example, *City of Santa Paula v. Narula* (2003) 114 Cal.App.4th 485). Some confusion has arisen due to language used in one unpublished federal court opinion involving superpriority liens (*Mechammil v. City of San Jacinto* (9th Cir. 216) 653 Fed.Appx. 562). This bill would address that confusion by clearly differentiating between ordinary and superpriority liens, and specifically confirming that the former are permissible. This proposal thus addresses the potential for future litigation by explicitly establishing that local governments can use ordinary liens to collect any administrative fines and penalties. (This bill does not change existing law regarding superpriority liens.) The bill would also codify certain minimum requirements for notice before a lien is imposed, consistent with best practices already used by many jurisdictions."

13) **Arguments in Opposition.** None on file.

14) **Double-Referral.** This bill is double-referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Code Enforcement Officers [CO-SPONSOR]
County of Santa Clara [CO-SPONSOR]
Rural County Representatives of California [CO-SPONSOR]
California State Association of Counties
County of Sacramento
League of California Cities
Trinity County Board of Supervisors

Opposition

None on file

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