

ACT 15

S.B. NO. 1447

A Bill for an Act Relating to Administrative Orders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-20, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~321-20 Remedies. Notwithstanding other penalties, the director may enforce this chapter in either administrative or judicial proceedings:

- (1) Administrative. If the director determines that any person is violating any provision of this chapter, any rule adopted thereunder, or any variance or exemption or waiver issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay an administrative penalty not to exceed \$1,000 for each day of violation, correct the violation at the alleged violator’s own expense, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after ser-

vice unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon such request the director shall specify a time and place for the alleged violator to appear. When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within twenty-four hours after service of the order. Any hearing before the director shall not stay any order to cease and desist issued pursuant to this paragraph. After a hearing pursuant to this ~~[subsection,]~~ paragraph, the director may affirm, modify, or rescind the order as appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this ~~[subsection,]~~ paragraph.

Factors to be considered in imposing the administrative penalty include the nature and history of the violation and any prior violation and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty and the burden of proof to the contrary is on the violator. In any judicial proceeding to enforce the administrative penalty imposed pursuant to this chapter, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing had expired without such a request, the administrative penalty imposed, and that the penalty imposed remains unsatisfied.

This section does not supersede specific administrative penalties provided elsewhere.

- (2) Judicial. The director may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of any order issued or rule adopted pursuant to this chapter, in addition to any other remedy or penalty provided for under this chapter.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that began before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 10, 2025.)