
A BILL FOR AN ACT

RELATING TO PLANNED COMMUNITY ASSOCIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that planned community
2 associations play a major role in Hawaii's housing. Members of
3 planned communities subject themselves to recorded declarations
4 and bylaws placing restrictions and obligations upon these
5 members and may be subjected to further actions by association
6 boards of directors and agents. At times, some of these boards
7 and agents conduct the business of the associations in an
8 inconsistent manner or in a manner that is not transparent to
9 the members.

10 The purpose of this Act is to provide more transparency and
11 accountability in the actions of board members of planned
12 community associations.

13 SECTION 2. Section 421J-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[+]§421J-5[+]~~ **Meetings of the board of directors**~~[+]~~;
16 **subcommittees.** (a) [~~Whenever practicable, all~~] All meetings
17 of the board of directors~~[+]~~ or any committee or subcommittee,
18 other than executive sessions, shall be open to all members.



1 Members who are not on the board of directors may participate in
2 any deliberation or discussion, other than executive sessions,
3 unless a majority of a quorum of the board of directors votes
4 otherwise.

5 (b) The board of directors shall meet at least once each
6 year.

7 (c) Minutes of the meetings of the board of directors or
8 any committee or subcommittee shall include the recorded vote of
9 each [~~board~~] member of the board of directors or committee or
10 subcommittee on all motions except motions voted upon in
11 executive session.

12 (d) The board of directors, with the approval of a
13 majority of a quorum of its members, may adjourn any meeting and
14 reconvene in executive session to discuss and vote upon matters
15 concerning personnel, litigation in which the association is or
16 may become involved, or as may be necessary to protect the
17 attorney-client privilege of the association. The general
18 nature of any business to be considered in executive session
19 shall be first announced in the regular session.

20 (e) No board member or committee or subcommittee member
21 shall vote by proxy at [~~board~~] meetings.



1 (f) A director who has a conflict of interest on any issue
2 before the board shall disclose the nature of the conflict of
3 interest prior to a vote on that issue at the board meeting, and
4 the minutes of the meeting shall record the fact that a
5 disclosure was made.

6 (g) The board of directors may appoint committees or
7 subcommittees to review and consider any specific matters;
8 however, the board of directors shall notify the members of any
9 appointment of a committee or subcommittee, the matter that the
10 committee or subcommittee is to review and consider, and the
11 alteration or elimination of any committee or subcommittee
12 appointed."

13 SECTION 3. Section 421J-7, Hawaii Revised Statutes, is
14 amended by amending subsections (a), (b), and (c) to read as
15 follows:

16 "(a) [~~Upon approval by the board, the~~] The most current
17 financial statement of the association [~~and the minutes of the~~
18 ~~most recent meeting of the board of directors (other than~~
19 ~~minutes of executive sessions)] shall be made available for
20 examination by any member at no cost, during reasonable hours,
21 or on twenty-four-hour loan, at a location within the planned
22 community designated by the board.~~



1 (b) ~~[The approved minutes of other meetings of the board,~~
2 ~~other than executive sessions, and the approved meetings of the~~
3 ~~association for the current and prior year, shall be made~~
4 ~~available for examination by members during reasonable hours at~~
5 ~~a location designated by the board. Copies of these meeting~~
6 ~~minutes shall be provided to any member upon the member's~~
7 ~~request if the member pays a reasonable fee for duplication,~~
8 ~~postage, stationery, and other administrative costs associated~~
9 ~~with handling the request.] The meeting minutes of the board of~~
10 ~~directors or any committee or subcommittee, once approved, for~~
11 ~~the current and prior year shall be:~~

12 (1) Available for examination by members at no cost or on
13 twenty-four-hour loan at a convenient location at the
14 planned community, to be determined by the board of
15 directors;

16 (2) Transmitted to any member making a request for the
17 minutes, by the board of directors, the managing
18 agent, or the association's representative, within
19 fifteen days of receipt of the request; provided that:

20 (A) The minutes shall be transmitted by mail,
21 electronic mail transmission, or facsimile, by
22 the means indicated by the member, if the member



1 indicated a preference at the time of the
2 request; and

3 (B) The administrative costs associated with handling
4 the request shall be borne by the association;
5 and

6 (3) Maintained by the association for at least five years.

7 (c) Financial statements, general ledgers, accounts
8 receivable ledgers, accounts payable ledgers, check ledgers,
9 insurance policies, contracts, invoices of the association for
10 the [~~current and prior year,~~] duration those records are kept by
11 the association, and any documents regarding delinquencies of
12 ninety days or more[7] shall be made available for examination
13 by members at reasonable hours at a location designated by the
14 board; provided that members shall pay for all costs associated
15 with the examination of documents. The board may require
16 members to furnish the association with an affidavit stating
17 that the foregoing information is requested in good faith for
18 the protection of the interests of the association, its members,
19 or both. Copies of these documents shall be provided to any
20 member upon the member's request if the member pays a reasonable
21 fee for duplication, postage, stationery, and other
22 administrative costs associated with handling the request.



1 Financial statements and all supporting documents required for
2 tax purposes shall be maintained for seven years."

3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY:

Cindy Evans

JAN 19 2006



Report Title:

Planned Community Associations

Description:

Requires board of directors of planned committee associations to notify members of the creation, alteration, or elimination of any committees or subcommittees. Requires association to make financial statements and meeting minutes available for member's review at convenient location within the planned community or on a 24-hour loan basis. Requires transmittal of records on request within 15 days, with costs for duplication and transmittal to be charged to the association.

