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# 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 can have a major impact on the planned community  
3 and its members. Members of planned communities are not only  
4 subject to the restrictions and obligations in the recorded  
5 declarations and bylaws of the association, they are also  
6 subject to the decisions and actions of the association's board  
7 of directors and its agents. These boards and their agents may  
8 sometimes conduct the business of the association in an  
9 inconsistent manner, or without the knowledge and consent of the  
10 members of the association.

11           The purpose of this Act is to make the actions of board  
12 members of planned community associations more transparent, and  
13 to increase the accountability of the board to the association.

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

16           "~~{}~~§421J-5~~{}~~ **Meetings of the board of directors**~~[-]~~;  
17 **committee or subcommittee.** (a) [~~Whenever practicable, all~~] All  
18 meetings of the board of directors, other than executive



1 sessions, shall be open to all members to provide input on the  
2 matters being discussed. Members who are not on the board of  
3 directors may participate in any deliberation or discussion,  
4 other than during executive sessions, unless a majority of a  
5 quorum of the board of directors votes otherwise.

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

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

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

19 ~~(e)]~~ (d) No board member shall vote by proxy at board  
20 meetings.

21 ~~(f)]~~ (e) A director who has a conflict of interest on any  
22 issue before the board shall disclose the nature of the conflict



1 of interest prior to a vote on that issue at the board meeting,  
2 and the minutes of the meeting shall record the fact that a  
3 disclosure was made.

4 (f) The board may appoint committees or subcommittees to  
5 review and consider any specific matters, and may alter or  
6 eliminate the committees or subcommittees; provided that the  
7 board in the minutes of the meeting at which the action was  
8 taken to appoint the committee or subcommittee shall:

9 (1) Report that the committee or subcommittee was  
10 appointed;

11 (2) Identify the members of the committee or subcommittee;  
12 and

13 (3) Describe the matter that the committee or subcommittee  
14 is to review and consider."

15 SECTION 3. Section 421J-7, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[~~+~~]**\$421J-7**[~~+~~] **Documents of the association.** (a) [~~Upon~~  
18 ~~approval by the board,~~] Association documents, the most current  
19 financial statement of the association, and the minutes of the  
20 most recent meeting of the board of directors (other than  
21 minutes of executive sessions) shall be made available for  
22 examination by any member at no cost, on twenty-four-hour loan

1 or during reasonable hours [~~at a location designated by the~~  
2 ~~board~~].

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

14 (1) Available for examination by any member at no cost or  
15 on twenty-four-hour loan; or

16 (2) Transmitted to any member requesting copies of the  
17 minutes, by the board, the managing agent, or the  
18 association's representative, within a reasonable  
19 period of time from receipt of the request; provided  
20 that:

21 (A) The minutes shall be transmitted by mail,  
22 electronic mail transmission, or facsimile, as



1                   requested by the member, if the member indicates  
 2                   a preference at the time of the request; and  
 3           (B) Reasonable costs of duplication, postage,  
 4                   stationery, and other administrative costs  
 5                   associated with handling the request shall be  
 6                   borne by the requesting member;

7                   and

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

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



1 fee for duplication, postage, stationery, and other  
2 administrative costs associated with handling the request.

3 (d) Members may view proxies, tally sheets, ballots,  
4 members' check-in lists, and the certificates of election, if  
5 any, for a period of thirty days following any association  
6 meeting; provided that members [~~shall pay~~] may be charged for  
7 [~~all~~] any costs associated with the examination of the  
8 documents. The board may require members to furnish to the  
9 association an affidavit stating that the foregoing information  
10 is requested in good faith for the protection of the interests  
11 of the association, its members, or both. Proxies and ballots  
12 may be destroyed following the thirty-day period. Copies of  
13 tally sheets, members' check-in lists, and the certificates of  
14 election from the most recent association meeting shall be  
15 provided to any member upon the member's request if the member  
16 pays a reasonable fee for duplication, postage, stationery, and  
17 other administrative costs associated with handling the request.

18 (e) Members may file a written request with the board to  
19 examine other documents of the association. The board shall  
20 give written authorization, or written refusal with an  
21 explanation of the refusal, for the examination within sixty  
22 calendar days of receipt of the request. The board may

1 condition its approval of any such request upon payment of  
2 reasonable fees. Without limitation, books and records kept by  
3 or on behalf of an association may be withheld from inspection  
4 and copying to the extent that they concern:

- 5 (1) Personnel records;
- 6 (2) An individual's medical records;
- 7 (3) Records relating to business transactions that are  
8 currently in negotiation;
- 9 (4) Communications [~~which~~] that are privileged because of  
10 attorney-client privilege or any other applicable  
11 privilege of the association;
- 12 (5) Complaints against an individual member of the  
13 association;
- 14 (6) Any records, the release of which could be a violation  
15 of any law, ordinance, rule, or regulation; or  
16 (7) Similar records."

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

20 SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 6. This Act shall take effect on July 1, 2006.



**Report Title:**

Planned Community Associations; Member's Interests

**Description:**

Requires planned community association (PCA) boards to give notice of the formation of a committee or subcommittee in meeting minutes and provide PCA members with better access to records. (CD1)

