
A BILL FOR AN ACT

RELATING TO PLANNED COMMUNITY ASSOCIATIONS.

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

1 SECTION 1. Section 421J-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§421J-5 Meetings of the board of directors; committee or**
4 **subcommittee.** (a) All meetings of the board of directors,
5 other than executive sessions, shall be open to all members to
6 provide input on the matters being discussed. Members who are
7 not on the board of directors may participate in any
8 deliberation or discussion, other than during executive
9 sessions, unless a majority of a quorum of the board of
10 directors votes otherwise.

11 (b) The board of directors shall meet at least once each
12 year.

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



1 nature of any business to be considered in executive session
2 shall be first announced in the regular session.

3 (d) No board member shall vote by proxy at board meetings.

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

9 (f) The board may appoint committees or subcommittees to
10 review and consider any specific matters, and may alter or
11 eliminate the committees or subcommittees; provided that the
12 board in the minutes of the meeting at which the action was
13 taken to appoint the committee or subcommittee shall:

14 (1) Report that the committee or subcommittee was
15 appointed;

16 (2) Identify the members of the committee or subcommittee;
17 and

18 (3) Describe the matter that the committee or subcommittee
19 is to review and consider.

20 (g) Minutes of the meetings of the board of directors
21 shall include the recorded vote of each board member present on
22 all motions except motions voted upon in executive session."



1 SECTION 2. Section 508D-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "disclosure statement" to
3 read as follows:

4 ""Disclosure statement" means a written statement prepared
5 by the seller, or at the seller's direction, that purports to
6 fully and accurately disclose all material facts relating to the
7 residential real property being offered for sale that:

- 8 (1) Are within the knowledge or control of the seller;
- 9 (2) Can be observed from visible, accessible areas; or
- 10 (3) Are required to be disclosed under sections 508D-4.5
11 and 508D-15.

12 If the residential real property being offered for sale is in a
13 planned community[~~7~~] as defined in section 421J-2, "disclosure
14 statement" includes the planned community declaration and
15 association documents as those terms are defined in section
16 421J-2[~~-~~], and if the property is otherwise subject to
17 restrictions or conditions on use, either because of covenants
18 contained in the deed for the property or because of another
19 recorded document, the disclosure statement shall also include
20 all documentation relating to any restrictions or conditions,
21 including but not limited to any unrecorded rules or guidelines
22 that may have been issued by any entity responsible for



1 enforcing those restrictions or conditions. Except for the
2 disclosures required under section 508D-15[7] and this
3 definition, no seller shall have any duty to examine any public
4 records when preparing a disclosure statement."

5 SECTION 3. Section 508D-15, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) Except as required under subsections (a) and (b), and
8 in the definition of "disclosure statement" in section 508D-1,
9 the seller shall have no duty to examine any public record when
10 preparing a disclosure statement."

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

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on November 1, 2008.



H.B. NO. 2492
H.D. 1
S.D. 1
C.D. 1

Report Title:

Planned Community Associations

Description:

Requires the minutes of meetings of the board of directors for a planned community association to record the vote of each board member present on all motions except motions voted upon in executive session. Requires the inclusion of property restrictions or conditions of use in a seller's disclosure statement. (HB2492 CD1)

