

STAND. COM. REP. NO. 3399

Honolulu, Hawaii

APR 04 2008

RE: H.B. No. 2894  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and  
Affordable Housing, to which was referred H.B. No. 2894 entitled:

"A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY  
ASSOCIATIONS,"

begs leave to report as follows:

The purpose of this measure is to ensure that planned  
community associations are able to effectively enforce assessments  
and restrictive covenants and to ensure that all property owners  
within planned communities and members of planned community  
associations are entitled to the rights and protections provided  
under the law relating to planned community associations, by  
making clarifying amendments to chapter 421J, Hawaii Revised  
Statutes.

Specifically, this measure amends chapter 421J, Hawaii  
Revised Statutes, by:

- (1) Adding a new section to establish a rule of  
interpretation that is similar to the rule of  
interpretation in the condominium law;
- (2) Adding a new section to allow non-condominium homeowner  
associations to restate their documents by board  
resolution and without an owner vote, which is similar  
to the procedures used by condominium associations to  
restate their documents;



- (3) Amending section 421J-2, Hawaii Revised Statutes, to clarify the definitions for "association", "declaration", and "planned community"; and
- (4) Amending section 421J-12, Hawaii Revised Statutes, to make it easier to amend the governing documents of non-condominium associations by permitting amendments to be made by written consent as well as by vote at a meeting, even if documents do not specifically permit a vote by written consent.

Testimony in support of this measure was submitted by the Hawaii Chapter of the Community Associations Institute, the Kaanapali Hillside Homeowners' Association, and two private individuals.

Your Committee finds that some planned communities and planned community associations that were created prior to the enactment of chapter 421J, Hawaii Revised Statutes, relating to planned community associations, may not be deemed as a planned community or a planned community association as currently defined. Thus, these property owners are not afforded the rights and protections provided under chapter 421J. Amending the law relating to planned community associations will ensure that planned community associations are able to effectively enforce assessments and restrictive covenants and will make available to these associations and the landowners of these communities the rights and protections provided under chapter 421J, Hawaii Revised Statutes.

Your Committee recognizes the concerns that amending the definitions for a planned community and the documents of a planned community may cause unintended consequences. However, your Committee notes that agreeable language has been proposed that meets the concerns of the parties involved.

Accordingly, your Committee has amended this measure by:

- (1) Amending the definition of "association documents" under section 421J-2, Hawaii Revised Statutes, to add language that includes the payment of money as a regular assessment as part of the association documents;
- (2) Amending the definition of "declaration" under section 421J-2, Hawaii Revised Statutes, to add language that



clarifies that the declaration of the association means any recorded association document and excludes a mandatory payment of money as a regular annual assessment as this assessment will be included by the amendments to the definition of "association documents";

- (3) Amending the definition of "planned community" under section 421J, Hawaii Revised Statutes, to add language that includes real property, other than a condominium or a cooperative housing corporation or a time share plan, that is subject to a planned community association as defined under section 607-14, Hawaii Revised Statutes; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2894, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2894, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Affordable  
Housing,



RUSSELL S. KOKUBUN, Chair



The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Commerce, Consumer Protection and Affordable Housing**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2894	CPH	4/1/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	✓			
IGE, David Y. (VC)	✓			<del>WR</del> WR
ESPERO, Will	✓			
IHARA, Jr., Les				✓
SAKAMOTO, Norman	✓			<del>WR</del> WR
TANIGUCHI, BRIAN T.	✓			
TRIMBLE, Gordon	✓			
<b>TOTAL</b>	6			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Will Espero</i>				
<b>Distribution:</b>				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes