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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 the rights of  
2 homeowners in residential associations need to be protected  
3 without unduly impairing the ability of the associations' board  
4 to perform its duties. Discussions, decisions, and actions of  
5 homeowner association boards are intertwined with or  
6 significantly enabled or encouraged by government, therefore any  
7 deliberations or decisions made should be as open and  
8 transparent as possible for the benefit of the association  
9 members.

10           Transparency and an open exchange of ideas between  
11 homeowner association boards and their members is best promoted  
12 by the evenhanded treatment and fair enforcement of the rules,  
13 the prohibiting of harassment or intimidation of association  
14 members, and the elimination of any potential conflicts of  
15 interest that board members may have.

16           The purpose of this Act is to protect the rights of members  
17 belonging to homeowner associations by promoting transparency  
18 and the open exchange of ideas.



1 SECTION 2. Chapter 421J, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§421J- Board of directors; harassment, intimidation,  
5 and financial benefit; liability. (a) The board shall not  
6 harass or intimidate any of its members, nor shall the board  
7 employ any of its available resources to harass or intimidate  
8 any of its association members.

9 (b) A board member shall not benefit financially from any  
10 board decision or action. A board member who breaches the duty  
11 of loyalty by benefiting financially from a board decision or  
12 action shall be liable to all members for all damages resulting  
13 from the breach."

14 SECTION 3. Section 421J-5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§421J-5 Meetings of the board of directors; committee or  
17 subcommittee. (a) All meetings of the board of directors,  
18 other than executive sessions, shall be open to all members to  
19 provide input on the matters being discussed. Members who are  
20 not on the board of directors may participate in any  
21 deliberation or discussion, other than during executive



1 sessions, unless a majority of a quorum of the board of  
2 directors votes otherwise.

3 (b) The board of directors shall meet at least once each  
4 year.

5 (c) The board of directors, with the approval of a  
6 majority of a quorum of its members, may adjourn any meeting and  
7 reconvene in executive session to discuss and vote upon matters  
8 concerning personnel, litigation in which the association is or  
9 may become involved, or as may be necessary to protect the  
10 attorney-client privilege of the association. The general  
11 nature of any business to be considered in executive session  
12 shall be first announced in the regular session.

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

14 (e) A director who has a conflict of interest on any issue  
15 before the board shall disclose the nature of the conflict of  
16 interest prior to a vote on that issue at the board meeting, and  
17 the minutes of the meeting shall record the fact that a  
18 disclosure was made.

19 (f) The board may appoint committees or subcommittees to  
20 review and consider any specific matters, and may alter or  
21 eliminate the committees or subcommittees; provided that the



1 board in the minutes of the meeting at which the action was  
2 taken to appoint the committee or subcommittee shall:

3 (1) Report that the committee or subcommittee was  
4 appointed;

5 (2) Identify the members of the committee or subcommittee;  
6 and

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

9 (g) Minutes of the meetings of the board of directors  
10 shall include the recorded vote of each board member present on  
11 all motions except motions voted upon in executive session.

12 (h) The board shall provide reasonable notice to all  
13 members of scheduled meetings and pending board decisions and  
14 actions."

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Planned Community Associations; Board Liability

**Description:**

Prohibits the Board of Directors of home associations from harassing or intimidating its members and from benefiting from any board decision or action. Requires reasonable notice of board actions. (HB1464 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

