
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; liability. (a) Every
5 member of the board of directors shall be held jointly and
6 severally liable for any action resulting in the loss of
7 enjoyment of a member's real property caused by the board's
8 failure to comply with the requirements of this chapter.

9 (b) The board shall not harass or intimidate any of its
10 members, nor shall the board employ any of its available
11 resources to harass or intimidate any of its association
12 members. Every member of the board of directors shall be held
13 jointly and severally liable for the harassment or intimidation
14 of a member by any director.

15 (c) A board member who breaches the duty of loyalty by
16 financially benefiting from a board decision or action shall be
17 liable to all members for all damages resulting from the
18 breach."

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

21 "§421J-5 Meetings of the board of directors; committee or
22 subcommittee. (a) All meetings of the board of directors,



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

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

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

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

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



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

- 6 (1) Report that the committee or subcommittee was
- 7 appointed;
- 8 (2) Identify the members of the committee or subcommittee;
- 9 and
- 10 (3) Describe the matter that the committee or subcommittee
- 11 is to review and consider.

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

15 (h) The board shall provide reasonable notice to all
 16 members of scheduled meetings and pending board decisions and
 17 actions."

18 SECTION 4. New statutory material is underscored.

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

20

INTRODUCED BY:

[Handwritten signatures]



H.B. NO. 1464

Report Title:

Planned Community Associations; Board Liability

Description:

Prohibits the board of directors on home association boards from harassing or intimidating its members. Holds board members jointly and severally liable for certain violations under chapter 421J, HRS. Requires reasonable notice of board actions.

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

