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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. Section 421J-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§421J-4 Proxies. (a) A proxy shall be in writing and  
4 shall be valid for only a specified meeting of the association  
5 and any adjournments of that meeting.

6           (b) A member of the association may give a proxy to any  
7 person or the board of directors as an entity, and the proxy may  
8 be limited as indicated by the member. No proxy shall be  
9 irrevocable unless:

10           (1) The proxy is coupled with a financial interest in the  
11           unit; or

12           (2) The proxy is held pursuant to a first mortgage of  
13           record encumbering a unit or an agreement of sale  
14           affecting a unit.

15           (c) To be valid, a proxy shall:

16           (1) Be delivered to the secretary of the association or  
17           the managing agent, if any, no later than 4:30 p.m. on



- 1 the second business day prior to the date of the  
2 meeting to which it pertains;
- 3 (2) Contain at least the name of the association, the date  
4 of the meeting of the association, the printed name  
5 and signature of the person or persons giving the  
6 proxy, the unit or units for which the proxy is given,  
7 and the date that the proxy is given; and
- 8 (3) [~~Contain~~] If it is a standard proxy form authorized by  
9 the association, contain boxes wherein the owner has  
10 indicated that the proxy is given:
- 11 (A) For quorum purposes only;
- 12 (B) To the individual whose name is printed on a line  
13 next to this box;
- 14 (C) To the board of directors as a whole and that the  
15 vote be made on the basis of the preference of  
16 the majority of the [~~board,~~] directors present at  
17 the meeting; or
- 18 (D) To those directors present at the meeting and the  
19 vote to be shared with each board member  
20 receiving an equal percentage.



1 (d) Any board of directors that [~~uses~~] intends to use  
2 association funds to distribute proxies that include the  
3 election of directors shall first post notice of its intent to  
4 distribute proxies in prominent locations within the project at  
5 least [~~thirty~~] twenty-one days prior to its distribution of  
6 proxies; provided that if the board receives within seven days  
7 of the posted notice a request by any owner for nomination to  
8 the board accompanied by a statement, the board shall mail to  
9 all owners either:

10 (1) A proxy form containing the names of all owners who  
11 have requested nomination to the board accompanied by  
12 their statements; or

13 (2) A proxy form containing no names, but accompanied by a  
14 list of names of all owners who have requested  
15 nomination to the board and their statements.

16 The statement shall [~~not exceed one hundred words,~~  
17 ~~indicating~~] be limited to black text on white paper and shall  
18 indicate the owner's qualifications to serve on the board [~~and~~]  
19 or reasons for wanting to receive proxies. If the board's  
20 notice of intent to distribute proxies states that the statement  
21 shall not exceed one hundred words, but a longer statement shall



1 be available on the Internet, then: the owner may provide a  
2 written statement, not to exceed one hundred words, together  
3 with a longer statement in an electronic file not to exceed one  
4 hundred kilobytes; and the mailing of the written statements by  
5 the association shall include an internet link informing owners  
6 that longer statements shall be available on the Internet. In  
7 all other instances, the statement shall not exceed one single-  
8 sided eight and one-half inches by eleven inches page and the  
9 association shall not be required to make a longer statement  
10 available on the Internet.

11 (e) Nothing in this section shall affect the holder of any  
12 proxy under a first mortgage of record encumbering an apartment.  
13 or under an agreement of sale affecting an apartment.

14 (f) Nothing in this section shall prohibit the use of  
15 proxies for filling vacancies that occur after the notice of the  
16 annual meeting has been distributed.

17 (g) No managing agent or resident manager, or employee  
18 thereof, shall solicit, for use by the managing agent or  
19 resident manager, any proxies from any member of the association  
20 that retains the managing agent or employs the resident manager,  
21 nor shall the managing agent or resident manager cast any proxy



1 vote at any association meeting except for the purpose of  
2 establishing a quorum."

3 SECTION 2. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 3. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval;  
9 provided that the proxy statement requirements in section 1 of  
10 this Act shall apply to proxies for meetings of a planned  
11 community association that occur on or after October 1, 2016.



**Report Title:**

Planned Community Associations; Proxy Statements; Requirements

**Description:**

Amends various proxy statement requirements for planned community associations to promote communication from prospective board of directors candidates to all owners when proxies are used for elections of directors; standardize the proxy form; and prohibit managing agents, resident managers, and employees thereof from soliciting or casting proxy votes at meetings for the same association that employs their services unless it is for the purpose of establishing quorum. Applies to proxy statements for meetings of an association occurring on or after October 1, 2016. (SD1)

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