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# A BILL FOR AN ACT

RELATING TO BOARD MEMBERS.

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

1           SECTION 1. Section 421I-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~+~~§421I-3~~+~~ **Board of directors; election.** (a) A  
4 meeting of the corporation for the purpose of electing the board  
5 of directors shall be held not later than one hundred eighty  
6 days after the first conveyance of a dwelling unit to a  
7 shareholder, if at least forty per cent of the dwelling units  
8 have been conveyed by that time. If forty per cent of the  
9 dwelling units have not been conveyed within one year after the  
10 first conveyance, the meeting of the corporation may be held  
11 upon the call of the owners of at least ten per cent of the  
12 shares by a petition presented to the secretary of the  
13 corporation.

14           (b) Every member of the board of directors shall be:

15           (1) A shareholder of the cooperation;

16           (2) A spouse of a shareholder; or

17           (3) A trust beneficiary, if the shareholder is a trustee.



1 (c) Each dwelling unit shall have only one representative  
2 on the board of directors.

3 (d) Within ninety days after being elected to the board of  
4 directors, each member shall:

5 (1) Certify in writing to the board of directors that the  
6 member has received and read the corporation's  
7 articles of incorporation, bylaws, and rules and  
8 regulations; or

9 (2) Obtain a board leader course completion certificate  
10 from an instructor certified by the Community  
11 Associations Institute, or similar nationally  
12 recognized organization.

13 The board of directors shall retain each member's written  
14 certification or course completion certificate for the duration  
15 of their term."

16 SECTION 2. Section 421J-3, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "[+]§421J-3[+] **Board of directors.** (a) Every member of  
19 the board of directors shall be a member of the association.  
20 However, a developer may appoint or elect directors pursuant to



1 any special voting rights or power of appointment reserved to  
2 the master developer.

3 (b) The board of directors shall be composed of the number  
4 and group of persons specified in the association documents.  
5 There shall not be more than one representative on the board of  
6 directors from any one unit that is owned by any person other  
7 than the master developer or declarant.

8 (c) Within ninety days after being elected or appointed to  
9 the board, each officer and member shall:

10 (1) Certify in writing to the secretary of the association  
11 that the officer or member has received and read the  
12 association documents; or

13 (2) Obtain a board leader course completion certificate  
14 from an instructor certified by the Community  
15 Associations Institute, or similar nationally  
16 recognized organization.

17 The association shall retain each officer and member's  
18 written certification or course completion certificate for the  
19 duration of their term."

20 SECTION 3. Section 514B-106, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           **"§514B-106 Board; powers and duties.** (a) Except as  
2 provided in the declaration, the bylaws, subsection (b), or  
3 other provisions of this chapter, the board may act in all  
4 instances on behalf of the association. In the performance of  
5 their duties, officers and members of the board shall owe the  
6 association a fiduciary duty and exercise the degree of care and  
7 loyalty required of an officer or director of a corporation  
8 organized under chapter 414D. Any violation by a board or its  
9 officers or members of the mandatory provisions of section 514B-  
10 161 or 514B-162 may constitute a violation of the fiduciary duty  
11 owed pursuant to this subsection; provided that a board member  
12 may avoid liability under this subsection by indicating in  
13 writing the board member's disagreement with such board action  
14 or rescinding or withdrawing the violating conduct within forty-  
15 five days of the occurrence of the initial violation.

16           (b) The board may not act on behalf of the association to  
17 amend the declaration or bylaws (sections 514B-32(a)(11) and  
18 514B-108(b)(7)), to remove the condominium from the provisions  
19 of this chapter (section 514B-47), or to elect members of the  
20 board or determine the qualifications, powers and duties, or  
21 terms of office of board members (subsection (e)); provided that



1 nothing in this subsection shall be construed to prohibit board  
2 members from voting proxies (section 514B-123) to elect members  
3 of the board; provided further that notwithstanding anything to  
4 the contrary in the declaration or bylaws, the board may only  
5 fill vacancies in its membership to serve until the next annual  
6 or duly noticed special association meeting. Notice of a  
7 special association meeting to fill vacancies shall include  
8 notice of the election. Any special association meeting to fill  
9 vacancies shall be held on a date that allows sufficient time  
10 for owners to declare their intention to run for election and to  
11 solicit proxies for that purpose.

12 (c) Within thirty days after the adoption of any proposed  
13 budget for the condominium, the board shall make available a  
14 copy of the budget to all the unit owners and shall notify each  
15 unit owner that the unit owner may request a copy of the budget.

16 (d) The declaration may provide for a period of developer  
17 control of the association, during which a developer, or persons  
18 designated by the developer, may appoint and remove the officers  
19 and members of the board. Regardless of the period provided in  
20 the declaration, a period of developer control terminates no  
21 later than the earlier of:



1           (1) Sixty days after conveyance of seventy-five per cent  
2                   of the common interest appurtenant to units that may  
3                   be created to unit owners other than a developer or  
4                   affiliate of the developer;

5           (2) Two years after the developer has ceased to offer  
6                   units for sale in the ordinary course of business;

7           (3) Two years after any right to add new units was last  
8                   exercised; or

9           (4) The day the developer, after giving written notice to  
10                  unit owners, records an instrument voluntarily  
11                  surrendering all rights to control activities of the  
12                  association.

13 A developer may voluntarily surrender the right to appoint and  
14 remove officers and members of the board before termination of  
15 that period, but in that event the developer may require, for  
16 the duration of the period of developer control, that specified  
17 actions of the association or board, as described in a recorded  
18 instrument executed by the developer, be approved by the  
19 developer before they become effective.

20           (e) Not later than the termination of any period of  
21 developer control, the unit owners shall elect a board of at



1 least three members; provided that projects created after  
2 May 18, 1984, with one hundred or more individual units, shall  
3 have an elected board of at least nine members unless the  
4 membership has amended the bylaws to reduce the number of  
5 directors; and provided further that projects with more than one  
6 hundred individual units where at least seventy per cent of the  
7 unit owners do not reside at the project may amend the bylaws to  
8 reduce the board to as few as five members by the written  
9 consent of a majority of the unit owners or the vote of a  
10 majority of a quorum at any annual meeting or special meeting  
11 called for that purpose. The association may rely on its  
12 membership records in determining whether a unit is owner-  
13 occupied. A decrease in the number of directors shall not  
14 deprive an incumbent director of any remaining term of office.

15 (f) At any regular or special meeting of the association,  
16 any member of the board may be removed and successors shall be  
17 elected for the remainder of the term to fill the vacancies thus  
18 created. The removal and replacement shall be by a vote of a  
19 majority of the unit owners and, otherwise, in accordance with  
20 all applicable requirements and procedures in the bylaws for the  
21 removal and replacement of directors and, if removal and



1 replacement is to occur at a special meeting, section  
2 514B-121(c).

3 (g) Within ninety days after being elected or appointed to  
4 the board, each officer and member shall:

5 (1) Certify in writing to the secretary of the association  
6 that the officer or member has received and read the  
7 association's articles of incorporation, declaration,  
8 articles, bylaws, and house rules; or

9 (2) Obtain a board leader course completion certificate  
10 from an instructor certified by the Community  
11 Associations Institute, or similar nationally  
12 recognized organization.

13 The association shall retain each officer and member's  
14 written certification or course completion certificate for the  
15 duration of their term."

16 SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2023.

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# H.B. NO. 1161

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INTRODUCED BY:                 *Bennett* *8/2*                  
  JAN 24 2023



# H.B. NO. 1161

**Report Title:**

Condominium Association; Cooperative Housing Corporations;  
Planned Community Associations; Boards of Directors

**Description:**

Requires members boards of directors and officers of the condominium associations, cooperative housing corporations, and planned community associations to certify the receipt and reading of certain documents or complete a board leader course from an instructor certified by the Community Associations Institute, or similar nationally recognized organization.

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

