
A BILL FOR AN ACT

RELATING TO PLANNED COMMUNITY ASSOCIATIONS.

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

1 SECTION 1. 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- Termination of association. (a)**

5 Notwithstanding any law or provision of the association
6 documents to the contrary, an association may be terminated by a
7 plan of dissolution that:

8 (1) Meets the requirements of this section;
9 (2) Is approved by sixty-seven per cent of the votes
10 association members are entitled to cast under the
11 association documents;
12 (3) Is approved by a court of competent jurisdiction; and
13 (4) Is consented to in writing by the holders of all liens
14 affecting association property.

15 (b) Any plan of dissolution shall include:

16 (1) A timeline for the proposed termination of the
17 association;



1 (2) A plan for distributing or otherwise dealing with any
2 assets of the association;
3 (3) A plan to determine and pay all creditors of the
4 association; and,
5 (4) A plan for the management of the former assets of the
6 association after the termination of the association,
7 including funding for the maintenance of the assets.
8 (c) A special meeting of the association to consider a
9 plan of dissolution may be called by the board or by a petition
10 to the board signed by not less than twenty-five per cent of the
11 members; provided that if the board fails to send out notices
12 for the special meeting within fourteen days of the receipt of
13 the petition, the petitioners may set the time, date, and place
14 for the special meeting and may send out notices and proxies for
15 the special meeting at the association's expense in accordance
16 with the association documents and this chapter; provided
17 further that a special meeting to consider a plan of dissolution
18 shall be set no later than sixty days from the receipt of the
19 petition. Notice of the special meeting to consider the plan of
20 dissolution shall be given in accordance with section 421J-3.5
21 and shall include a copy of the plan of dissolution. No board



1 member shall use association funds to oppose a plan of
2 dissolution.

3 (d) If the members duly approve the plan of dissolution,
4 the board shall submit the plan of dissolution to a court of
5 competent jurisdiction. The court shall examine the plan of
6 dissolution for compliance with this section and any other
7 applicable law and shall notify the board in writing of any
8 deficiencies in the plan of dissolution. If the court
9 determines that the plan of dissolution meets the requirements
10 of this section and any other applicable law, the court shall
11 authorize the termination of the association and the dissolution
12 may proceed in accordance with this section.

13 (e) A court-approved plan of dissolution shall be
14 recorded. The termination of the association is effective on
15 the date of recording or at a later date, as specified in the
16 plan.

17 (f) Upon the recording of the plan of dissolution, title
18 to all real and personal property owned by the association shall
19 vest in the termination trustee. The board, or a person
20 appointed by the plan of dissolution, shall serve as the
21 termination trustee and shall have a fiduciary duty to carry out



1 the dissolution plan. The termination trustee shall have the
2 powers granted to the board by the association documents and
3 subsection (g). If the board fails to act as the termination
4 trustee, a court of competent jurisdiction shall appoint a
5 termination trustee upon a petition to the court by any member
6 of the association.

7 (g) The approval of a plan of dissolution shall not
8 terminate the board, which shall continue in existence following
9 the approval of the plan of dissolution with all powers and
10 duties of the board under the association documents as necessary
11 to wind up the affairs of the association. Notwithstanding
12 anything in the association documents to the contrary, after
13 approval of the plan of dissolution, to the extent the board
14 deems necessary to wind up the affairs of the association, the
15 board may:

- 16 (1) Conduct the affairs of the association;
- 17 (2) Employ agents, attorneys, and other professionals;
- 18 (3) Carry out contracts and collect, pay, and settle debts
19 and claims for and against the association;
- 20 (4) Defend any lawsuits brought against the association;



1 (5) Sue in the name of the association for all amounts due
2 or owed to the association or to recover any
3 association property;

4 (6) Maintain and repair association property and demolish
5 any unsafe or uninhabitable improvements to
6 association property;

7 (7) Sell, exchange, convey, or otherwise dispose of assets
8 of the association for an amount the board deems in
9 the best interests of the association, and execute
10 bills of sale and deeds of conveyance in the name of
11 the association;

12 (8) Collect and receive rents, profits, accounts
13 receivable, income, maintenance fees, special
14 assessments, or insurance proceeds for the
15 association; and

16 (9) Contract and do anything in the name of the
17 association that is proper and convenient to terminate
18 the affairs of the association.

19 (h) If the association is incorporated under chapter 414D,
20 after the approval of the plan of dissolution, the board shall



1 file articles of dissolution with the department of commerce and
2 consumer affairs pursuant to section 414D-243.

3 (i) Any assets of the association remaining after
4 completion of the plan of dissolution shall be distributed
5 equally among the members or as otherwise provided in the plan
6 of dissolution. No member shall be personally liable for the
7 unpaid obligations of the terminated association other than any
8 assessments chargeable to the member's unit before the approval
9 of the plan of dissolution."

10 SECTION 2. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: K. A. Hill (B/R)



S.B. NO. 2368

Report Title:

Planned Community Associations; Dissolution

Description:

Allows members of a planned community association to terminate the association with the approval of a plan of dissolution by 67% of the members of the association, a court of competent jurisdiction, and all holders of liens on association property. Enables the association board or other termination trustee to wind up the affairs of the association in accordance with the plan of dissolution.

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