

ACT 191

H.B. NO. 2492

A Bill for an Act Relating to Planned Community Associations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 421J-5, Hawaii Revised Statutes, is amended to read as follows:

**“§421J-5 Meetings of the board of directors; committee or subcommittee.** (a) All meetings of the board of directors, other than executive sessions, shall be open to all members to provide input on the matters being discussed. Members who are not on the board of directors may participate in any deliberation or discussion, other than during executive sessions, unless a majority of a quorum of the board of directors votes otherwise.

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

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

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

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

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

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

- (2) Identify the members of the committee or subcommittee; and
- (3) Describe the matter that the committee or subcommittee is to review and consider.

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

SECTION 2. Section 508D-1, Hawaii Revised Statutes, is amended by amending the definition of “disclosure statement” to read as follows:

““Disclosure statement” means a written statement prepared by the seller, or at the seller’s direction, that purports to fully and accurately disclose all material facts relating to the residential real property being offered for sale that:

- (1) Are within the knowledge or control of the seller;
- (2) Can be observed from visible, accessible areas; or
- (3) Are required to be disclosed under sections 508D-4.5 and 508D-15.

If the residential real property being offered for sale is in a planned community[;] as defined in section 421J-2, “disclosure statement” includes the planned community declaration and association documents as those terms are defined in section 421J-2[-], and if the property is otherwise subject to restrictions or conditions on use, either because of covenants contained in the deed for the property or because of another recorded document, the disclosure statement shall also include all documentation relating to any restrictions or conditions, including but not limited to any unrecorded rules or guidelines that may have been issued by any entity responsible for enforcing those restrictions or conditions. Except for the disclosures required under section 508D-15[;] and this definition, no seller shall have any duty to examine any public records when preparing a disclosure statement.”

SECTION 3. Section 508D-15, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as required under subsections (a) and (b), and in the definition of “disclosure statement” in section 508D-1, the seller shall have no duty to examine any public record when preparing a disclosure statement.”

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on November 1, 2008.

(Approved June 18, 2008.)