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# A BILL FOR AN ACT

RELATING TO ASSOCIATIONS.

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

1           SECTION 1. The legislature finds that landowners whose  
2 lots abut private subdivision roads have a legal duty to  
3 contribute to necessary maintenance of the private subdivision  
4 roads even though their deeds are silent on the matter.  
5 *Paradise Hui Hanalike v. Hawaiian Paradise Park Corp.*, 66 Haw.  
6 362, 364, 662 P.2d 211, 212 (1983). However, in those instances  
7 where planned residential subdivisions were created without  
8 entities to collect such contributions or association dues or to  
9 be responsible for the maintenance of common areas such as  
10 private roads or parks, the legislature further finds that it is  
11 necessary to create a procedure for the creation of such  
12 entities.

13           The purpose of this Act is to authorize the creation of  
14 after-the-fact homeowners associations to collect contributions  
15 or association dues for the maintenance of common areas and  
16 private roadways.



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- After-the-fact associations. (a) Where there  
5 is no recorded declaration creating an association to collect  
6 contributions for the maintenance of common areas or private  
7 roadways within a planned residential subdivision, a landowner  
8 in a planned residential subdivision may create an after-the-  
9 fact association subject to the following:

10 (1) The association shall be incorporated under chapter  
11 414D, with the primary purpose of maintaining common  
12 areas of the real property in the planned residential  
13 subdivision, including private roadways, private  
14 parks, private meeting halls, and areas of benefit or  
15 of use by the planned residential subdivision;

16 (2) All board members shall attend a class approved by the  
17 county or real estate commission on the best practices  
18 on how to conduct meetings, create by-laws, or to  
19 otherwise run an association subject to this chapter  
20 upon their appointment and at least biennially  
21 thereafter;



- 1        (3) Initial assessments by the association shall not  
2        exceed one per cent of the real property tax  
3        assessment of a lot within the planned residential  
4        subdivision; provided that the founding members may be  
5        reimbursed for all reasonable expenses necessary to  
6        form such association from the initial assessments;
- 7        (4) All landowners within the planned residential  
8        subdivision shall be given written notice of the  
9        creation of such association; and
- 10       (5) Such association shall be recorded with the bureau of  
11       conveyances and be subject to this chapter.
- 12       (b) If more than one association is created in a planned  
13. residential subdivision in accordance with subsection (a), the  
14 association receiving a majority vote of the landowners within  
15 the planned residential subdivision shall be the association  
16 authorized to assess dues and fees and to manage the common  
17 areas for the benefit and use of the planned residential  
18 subdivision.
- 19       (c) Failure of an association created in accordance with  
20 subsection (a) to continue to be in compliance with the



1 provisions of this section may be grounds for administrative  
2 dissolution under chapter 414D.

3 (d) For the purposes of this section, "planned residential  
4 subdivision" means real property developed through a unified  
5 plan primarily for the purpose of residential use where no  
6 separate association has been designated or created through a  
7 recorded declaration for the purposes of owning or maintaining  
8 certain property within the planned residential subdivision or  
9 for the purposes of providing services to any unit owners within  
10 the planned residential subdivision. "Planned residential  
11 subdivision" does not include condominiums, cooperative housing  
12 corporations, or time share plans."

13 SECTION 3. New statutory material is underscored.

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

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

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H.B. NO. 1789

~~Jan 16 2020~~

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JAN 16 2020



# H.B. NO. 1789

**Report Title:**

Homeowners' Associations; Assessments; Nonprofit Corporations

**Description:**

Authorizes the creation of after-the-fact homeowners associations to collect contributions or association dues for the maintenance of common areas.

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

