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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

December 22, 2019

Director of Council Services
Traci N. T. Fujita, Esq.

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OFFICE OF THE
COUNTY CLERK

The Honorable Kelly T. King
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair King:

**SUBJECT: RESOLUTION URGING THE STATE OF HAWAII
LEGISLATURE TO PROVIDE PARITY FOR NATIVE
HAWAIIAN BENEFICIARIES OF THE HAWAIIAN
HOMES COMMISSION ACT OF 1920 WITH ALL
OTHER CITIZENS OF THE STATE OF HAWAII IN
FORECLOSURE ACTIONS**

May I request the attached proposed resolution, entitled "URGING THE STATE OF HAWAII LEGISLATURE TO PROVIDE PARITY FOR NATIVE HAWAIIAN BENEFICIARIES OF THE HAWAIIAN HOMES COMMISSION ACT OF 1920 WITH ALL OTHER CITIZENS OF THE STATE OF HAWAII IN FORECLOSURE ACTIONS," be placed on the next Council meeting agenda.

A handwritten signature in black ink that reads "Tasha Kama".

TASHA KAMA
Presiding Officer Pro Tempore

Enclosure: Preliminary Draft Resolution

COUNTY COMMUNICATION NO. 20-23

Resolution

No. _____

URGING THE STATE OF HAWAII LEGISLATURE TO PROVIDE PARITY
FOR NATIVE HAWAIIAN BENEFICIARIES OF THE HAWAIIAN HOMES
COMMISSION ACT OF 1920 WITH ALL OTHER CITIZENS OF THE
STATE OF HAWAII IN FORECLOSURE ACTIONS

WHEREAS, the 1959 Hawaii Admissions Act included a condition of statehood, that our new State of Hawaii Government would administer and be faithful to the tenets of the Hawaiian Homes Commission Act (HHCA) of 1920 dedicated to native Hawaiians defined in the HHCA; and

WHEREAS, the State of Hawaii created the state agency, the Department of Hawaiian Home Lands (DHHL) to be the lead state agency to fulfill the compact enumerated in the Admissions Act; and

WHEREAS, trust lands as defined under the HHCA are located within every County in the State of Hawaii; and

WHEREAS, the state agency of DHHL, operates a loan fund and loan servicing program for home loans on these trust lands to comply with the HHCA to prohibit non-Beneficiaries such as banks from taking ownership of beneficiary homes in a foreclosure and instead for such foreclosures to result in the asset being serviced and held by DHHL; and

WHEREAS, the state agency of DHHL exempts itself from the letter and spirit of the 2011 Foreclosure Protections law enacted by the Legislature and signed into law by Governor Abercrombie to protect the citizens of Hawaii by requiring foreclosures to be achieved either through a judicial foreclosure or non-judicial foreclosure process, leaving native Hawaiian citizens with neither process available to them; and

WHEREAS, the only protection and review of a foreclosure action taken by the state agency of DHHL on behalf of its direct loan program or on behalf of banks, is through HRS 91, the Administrative Review process of actions by state commissions and agencies; and

Resolution No. _____

WHEREAS, the state agency of DHHL loan policies and procedures, that govern the actions of its agency and Hawaiian Homes Commission, do not provide parity for native Hawaiian families to access common loan loss mitigations available for all other citizens of Hawaii, including opportunities to apply for a permanent loan modification, a loan assumption, or reasonable opportunities to sell a home prior to foreclosure; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it embraces its native Hawaiian citizens as full and equal citizens deserving of parity with all other county citizens; and
2. That it urges the State Legislature to implement technical amendments to the HHCA to provide immediate and direct guidance to its state agency DHHL, to implement on par home default options available to all other citizens of the County, namely a written loan servicing manual that includes but is not limited to ensuring federal protections of native Hawaiian active military service members, opportunities to apply for loan loss mitigation such as a permanent loan modification, a loan assumption and other industry standard loan default cures; and
3. That certified copies of this resolution be transmitted to the Honorable David Ige, Senators Gilbert Keith-Agaran, Rosalyn H. Baker, Kalani J. English, Representatives Lynn DeCoite, Troy N. Hashimoto, Angus L.K. McKelvey, Tina Wildberger, Justin H. Woodson, Kyle T. Yamashita, Sovereign Council of Hawaiian Homestead Associations Chairman Robin Puanani Danner, the Mayor and County Clerk.

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui