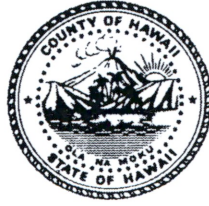


From the office of -  
Council Member  
District 3 - Hilo and Puna



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**SUSAN L.K. LEE LOY**  
25 Aupuni Street, Hilo, Hawai'i 96720

TO: Aaron S.Y. Chung, Chair  
and Members of the Hawai'i County Council

FROM: Sue Lee Loy, Council Member *PS for*  
Ashley L. Kierkiewicz, Council Member *AK*

DATE: February 18, 2020

SUBJECT: Proposed Amendments to Resolution No. 487-20; A Resolution supporting Senate Bill No. 2526, Senate Bill No. 2826, or other legislation with the purpose of providing adequate foreclosure protection for beneficiaries of the Hawaiian Homes Commission Act of 1920.

2020 FEB 19 AM 8:35  
COUNTY CLERK  
COUNTY OF HAWAII

Please see below proposed amendments to Resolution No. 487-20. This amendment removes references to Senate Bill No. 2526, which has been deferred, and amends the description of Senate Bill No. 2826 to the current draft adopted by the Senate Committee on Hawaiian Affairs.

The proposed amendments are illustrated below in Ramseyer format with respect to the contents of Resolution No. 487-20. Material to be removed is bracketed and stricken; material to be added is underscored.

1. The title of Resolution No. 487-20 is amended to read as follows:

**"A RESOLUTION SUPPORTING [~~SENATE BILL NO. 2526,~~] SENATE BILL NO. 2826, AS AMENDED, OR OTHER LEGISLATION WITH THE PURPOSE OF PROVIDING ADEQUATE FORECLOSURE PROTECTION FOR BENEFICIARIES OF THE HAWAIIAN HOMES COMMISSION ACT OF 1920."**

2. The eighth WHEREAS clause is deleted:

~~"WHEREAS, Senate Bill No. 2526, introduced in the 2020 session of the Hawai'i State Legislature, amends the Hawaiian Homes Commission Act to require appraisals of improvements to identify the replacement cost or the leasehold market value, grants authority to DHHL to authorize second position loans on homestead leases by approved lenders, requires DHHL to develop and implement a loan servicing manual, subject to commission approval, to standardize loan loss mitigation policies, procedures, and methods, and clarifies that DHHL shall~~

Comm. No. 740.1  
Ref. To: Pl council  
Ref. Date FEB 19 2020

~~not cancel a lease solely based on a loan default or delinquency unless all loan loss mitigation procedures are exhausted pursuant to the loan servicing manual; and”~~

3. The ninth WHEREAS clause is amended to read as follows:

“**WHEREAS**, Senate Bill No. 2826, introduced in the 2020 session of the Hawai‘i State Legislature and amended to Senate Draft 1, requires DHHL to develop and implement a loan servicing manual [~~and clarifies that DHHL shall not cancel a lease solely based on a loan default or delinquency unless all loan loss mitigation procedures are exhausted pursuant to the loan servicing manual~~]; now, therefore,”

4. The enacting clause is amended to read as follows:

“**BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I** that it supports the passage of [~~Senate Bill No. 2526,~~] Senate Bill No. 2826, as amended, or any other similar legislation that establishes regulations, resources, and opportunities for beneficiaries of the Hawaiian Homes Commission Act to prevent home loan default, such as a written loan servicing manual that includes ensuring federal protections of native Hawaiian active military service members, opportunities to apply for loan loss mitigations such as a permanent loan modification, a loan assumption, and other industry standard loan default cures.

5. The BE IT FURTHER RESOLVED clause is amended to read as follows:

“**BE IT FURTHER RESOLVED** that [~~Senate Bill No. 2526 and~~] Senate Bill No. 2826 [~~support~~] supports native Hawaiian beneficiaries as full and equal citizens who are on par with all other County citizens.”

A draft copy of the draft 2 of this bill that would result if these proposed amendments are adopted is attached.

SL/ps  
Att.

**A RESOLUTION SUPPORTING SENATE BILL NO. 2826, AS AMENDED, OR OTHER LEGISLATION WITH THE PURPOSE OF PROVIDING ADEQUATE FORECLOSURE PROTECTION FOR BENEFICIARIES OF THE HAWAIIAN HOMES COMMISSION ACT OF 1920.**

**WHEREAS**, Section 4 of United States Public Law No. 86-3, An Act to Provide for the Admission of the State of Hawai‘i into the Union, includes the condition that the Hawaiian home-loan fund, the Hawaiian home-operating fund, and the Hawaiian home-development fund of the Hawaiian Homes Commission Act of 1920 (HHCA) “shall not be reduced or impaired by any (State) amendment ... except with the consent of the United States”; and

**WHEREAS**, the Department of Hawaiian Home Lands (DHHL) is the lead state agency designated to fulfill the compact enumerated in the Admission Act; and

**WHEREAS**, trust lands as defined under the HHCA are located within each County in the State; and

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

**WHEREAS**, the Legislature can approve legislation requiring that the same level of protections and procedures mandated in Chapter 667 of Hawai‘i Revised Statutes, relating to foreclosures, be made available to HHCA beneficiaries; and

**WHEREAS**, the only protection and review of a foreclosure action taken by DHHL on behalf of its direct loan program or on behalf of banks, is through Hawai‘i Revised Statutes Chapter 91, the administrative review process followed by State commissions and agencies; and

**WHEREAS**, DHHL loan policies and procedures do not provide parity for native Hawaiian families to access common loan loss mitigations available for all other citizens of Hawai‘i, including opportunities to apply for a permanent loan modification, a loan assumption, or reasonable opportunities to sell a home prior to foreclosure; and

**WHEREAS**, Senate Bill No. 2826, introduced in the 2020 session of the Hawai‘i State Legislature and amended to Senate Draft 1, requires DHHL to develop and implement a loan servicing manual; now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I** that it supports the passage of Senate Bill No. 2826, as amended, or any other similar legislation that establishes regulations, resources, and opportunities for beneficiaries of the Hawaiian Homes Commission Act to prevent home loan default, such as a written loan servicing manual that includes ensuring federal protections of native Hawaiian active military service members, opportunities to apply for loan loss mitigations such as a permanent loan modification, a loan assumption, and other industry standard loan default cures.

**BE IT FURTHER RESOLVED** that Senate Bill No. 2826 supports native Hawaiian beneficiaries as full and equal citizens who are on par with all other County citizens.

**BE IT FINALLY RESOLVED** that the County Clerk shall transmit a copy of this resolution to the Honorable David Y. Ige, Governor; the Honorable Ronald D. Kouchi, President of the Senate; the Honorable Maile S.L. Shimabukuro, Chair of the Senate Committee on Hawaiian Affairs; the Honorable Donovan M. Dela Cruz, Chair of the Senate Committee on Ways and Means; the Honorable Karl Rhoads, Chair of the Senate Committee on Judiciary; the Honorable Scott K. Saiki, Speaker of the House of Representatives; the Honorable Ryan I. Yamane, Chair of the House Committee on Water, Land, and Hawaiian Affairs; the Honorable Chris Lee, Chair of the House Committee on Judiciary; the Honorable Sylvia Luke, Chair of the House Committee on Finance; and the Hawai'i Island legislative delegation.