REQUESTING THE GOVERNOR TO INSTITUTE AN EMERGENCY MORATORIUM ON COMMERCIAL AND RESIDENTIAL TENANT EVICTIONS AND HOMEOWNER FORECLOSURES BEYOND RELIEF THAT MAY BE PROVIDED BY THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT DUE TO STATEWIDE UNEMPLOYMENT AND REDUCED STATE REVENUES ARISING FROM THE OUTBREAK OF THE COVID-19 VIRUS IN THE STATE.

WHEREAS, on January 30, 2020, the World Health Organization declared the outbreak of a respiratory illness caused by a novel coronavirus that was first identified in Wuhan, Hubei Province, China ("COVID-19") a public health emergency of international concern; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared the outbreak of COVID-19 a public health emergency for the United States; and

WHEREAS, on March 4, 2020, the Governor of the State of Hawaii issued a proclamation declaring the existence of a state of emergency in the State due to the COVID-19 outbreak and invoking his authority under the Hawaii Emergency Management Act, Hawaii Revised Statutes ("HRS") Chapter 127A; and

WHEREAS, on March 11, 2020, the World Health Organization designated the COVID-19 outbreak a pandemic of international concern; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the Governor issued a Supplementary Proclamation suspending a number of State statutes and related administrative rules in order to allow State and county agencies to more effectively provide emergency relief and engage in emergency management functions. Included in the suspension was HRS Chapter 92, relating to public agency meetings and records, to the extent necessary to enable boards such as the City Council ("Council") to conduct business in person or through remote technology without holding meetings open to the public; and

WHEREAS, on March 21, 2020, the Governor issued a Second Supplementary Proclamation requiring all persons entering the State to be subject to a mandatory 14-day quarantine, effective March 26, 2020; and
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WHEREAS, on March 23, 2020, the Governor issued a Third Supplementary Proclamation imposing a similar stay-at-home order statewide; and

WHEREAS, on March 31, 2020, the Governor issued a Fourth Supplementary Proclamation requiring all persons traveling between any of the islands in the State to be subject to a mandatory 14-day quarantine, effective April 1, 2020; and

WHEREAS, on April 1, 2020, the President of the United States of America declared a major disaster for the State of Hawaii as a result of the COVID-19 pandemic; and

WHEREAS, as of April 8, 2020, the State Department of Health’s website reported that there were 435 confirmed COVID-19 cases in Hawaii. Most of the cases were on Oahu, with 328 cases, as well as four of six fatalities; and

WHEREAS, on April 8, 2020, Hawaii News Now reported that since March 1, 2020, the State Department of Labor and Industrial Relations, Unemployment Insurance Division, had taken 201,836 jobless claims, and that there were no signs of the claims stopping as businesses continued to close amid the ongoing State shutdown; and

WHEREAS, the City Council has concerns that due to the statewide unemployment, many Oahu commercial and residential tenants and homeowner mortgagors may be unable to pay their rents or mortgages and may face evictions or foreclosures; and

WHEREAS, the various proclamations issued by the Governor do not specifically provide relief or protection to commercial and residential tenants or homeowner mortgagors from evictions or foreclosures for failure to make lease, rental, or mortgage payments; and

WHEREAS, although the Hawaii Supreme Court, by order effective on March 17, 2020, has postponed most civil proceedings, including landlord-tenant matters, until April 30, 2020, and declared that there will be no eviction orders issued during this period, there is currently no relief or protection for commercial and residential tenants or homeowners after April 30, 2020; and

WHEREAS, although the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") signed into law of March 27, 2020, provides some relief for homeowner mortgagors with federally backed mortgage loans (Sec. 4022, Foreclosure Moratorium and Consumer Right to Request Forbearance and Sec. 4023, Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loan) and tenants with residential leases on or in property that is covered by a federal
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housing program or has a federally back mortgage loan, (Sec. 4024, Temporary Moratorium on Eviction Filings), the relief provided by the CARES Act is based on federal mortgage or housing programs and does not extend to commercial tenants and to mortgagors and residential tenants not covered by those sections of the CARES Act; and

WHEREAS, the Council notes that on March 11, 2020, the Hawaii Council on Revenues lowered its projections for the last three months of the current fiscal year because of the impact of COVID-19, and sharply lowered its forecast from 4.0 percent to 0.0 percent growth for the 2021 fiscal year that begins on July 1, 2020, which according to local media reports will reduce the State's anticipated revenues by approximately $225,000,000; and

WHEREAS, the Council finds that in light of the statewide unemployment rate and the drastically reduced State revenue projections, commercial and residential tenants and homeowner mortgagors that are not afforded relief under the CARES Act need relief or protection from evictions or foreclosures during and following the State's declaration of emergency, which may extend beyond the national state of emergency under the CARES Act, for a sufficient period time in order to allow them time to catch-up on their lease, rental, or mortgage payments; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it requests the Governor of the State of Hawaii to issue an emergency order or proclamation instituting a moratorium on all commercial and residential tenant evictions and homeowner mortgagor foreclosures in the State to the extent that such relief or protection is not currently provided under the CARES Act, and to declare the existence of an economic emergency due to the unprecedented level of unemployment claims and severely lowered State revenue projections; and

BE IT FURTHER RESOLVED that the Council requests that the emergency moratorium extend and broaden the relief that is provided under the CARES Act to include commercial tenants and residential tenants and mortgagors not covered by the CARES Act, and to continue for a reasonable period of time following the termination of the state of emergency declared by the Governor of the State of Hawaii, which may extend beyond the covered period in the CARES Act in order to provide commercial and residential tenants and homeowners sufficient time to bring their lease, rental, or mortgage payments current; and
BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Governor, the President of the State Senate, the Speaker of the State House of Representatives, the Mayor, the Managing Director, and members of the Hawaii mortgage loan industry, including the Mortgage Bankers Association of Hawaii, Inc., the Hawaii Association of Mortgage Professionals, the Hawaii Association of Mortgage Brokers, and the Hawaii Bankers Association.

DATE OF INTRODUCTION:

APR 9 2020

Honolulu, Hawaii  Councilmembers