



Legislation Text

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Res. No. 1686

Resolution calling upon the New York State Legislature to adopt, and the Governor to sign, legislation which would allow real estate developers to defer payment of New York City's mortgage recording taxes on new construction projects until after the construction of such projects are complete.

By Council Members Yassky, Brewer and Stewart

Whereas, Pursuant to section 253 of the State Tax Law, and section 11-260 of the Administrative Code, a mortgage recording tax is imposed on the recording of new and refinanced real estate mortgages for commercial and residential property; and

Whereas, While the making of a mortgage, an interest in land created by a written instrument providing security for the performance of a duty or the payment of a debt, in itself is not taxable, the recording of the mortgage is taxable; and

Whereas, Recording refers to the filing and indexing of the mortgage with the New York City Register, or, in Staten Island, with the Richmond County Clerk; and

Whereas, The recording of mortgages is critical to achieve lien priority and enforceability as an unrecorded mortgage simply can not be foreclosed; and

Whereas, The tax on the recording of a mortgage becomes due at the time of recording of a mortgage, or any other transaction that increases indebtedness secured by an existing mortgage; and

Whereas, In New York City, the mortgage recording tax is determined by applying a tax rate ranging from 2% to 2.75% to the principal debt or obligation secured or to be secured by any contingency in the mortgage; and

Whereas, When a real estate developer begins the construction of real property, the financing of such

property is usually secured by a mortgage; and

Whereas, Once a mortgage is taken, at the point of record or filing, the real estate developer is required to pay taxes on the mortgage, along with other taxes and fees, collectively known as closing costs, which on substantial projects, can easily exceed \$100,000; and

Whereas, Allowing real estate developers to defer the payment of mortgage recording taxes on a construction project until after the project is complete will provide developers with additional capital to be used toward other project costs; now, therefore be it

Resolved, That the Council of the city of New York calls upon the New York State Legislature to adopt, and the Governor to sign, legislation which would allow real estate developers to defer payment of New York City's mortgage recording taxes on new construction projects until after the construction of such projects are complete.

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