



Legislation Text

File #: Res 0871-2011, **Version:** A

Res. No. 871-A

Resolution calling upon the New York State Legislature to codify subdivision (f) of section 202.12-a of the Uniform Rules for the New York State Trial Courts, addressing the accuracy of filings in residential mortgage foreclosure actions.

By Council Members Vann, Arroyo, Brewer, James, Rose, Seabrook, Williams, Wills, Comrie, Levin, Barron, Dromm, Chin, Palma, Jackson, Foster, Dickens, Reyna, Mealy, Mark-Viverito, Ferreras, Gentile, Sanders Jr., Koppell, Eugene, Rodriguez, Gennaro and Halloran

Whereas, During the past three years, millions of American homeowners have suffered the loss of their homes to mortgage foreclosure; and

Whereas, According to the United States Government Accountability Office, from 2005 through 2009, the foreclosure and default rates for the country reached their highest level in three decades; and

Whereas, While it has been broadly reported that New York City has not suffered the depth and severity of the mortgage foreclosure crisis to the extent that other areas of the county have and since 2005, foreclosure filings in the City have more than doubled; and

Whereas, A New York Times article from January 10, 2011, reported that some foreclosure filings have been based on incorrect information, and New York State Supreme Court judges have attempted to combat false filings by attorneys for the financial institutions seeking to foreclose on mortgages; and

Whereas, For example, the article mentioned how an upstate New York law firm was ordered to pay nearly \$20,000 in fines and penalties because an attorney for the firm filed numerous documents that contained “falsities;” and

Whereas, For example, with regards to the upstate New York firm, judges have called the due diligence of the firm “slipshod work,” which has resulted in some cases in the dismissal of the foreclosure action; and

Whereas, In light of this problem the Chief Administrative Judge of the Courts of New York promulgated a new section of the Uniform Rules for the New York State Trial Courts which requires counsel to attest to the accuracy of court filings by filing an affidavit or affirmation; and

Whereas, Since the Chief Administrative Judge has promulgated a rule subject only to the advice and consent of the Administrative Board of the Courts and a future Chief Administrative judge who may seek to amend or repeal the rule, and because the validity of the rule is now subject to legal challenge before the appellate courts of the State of New York, it would be beneficial for the New York State Legislature to codify the rule, now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to codify subdivision (f) of section 202.12-a of the Uniform Rules for the New York State Trial Courts, addressing the accuracy of filings in residential mortgage foreclosure actions.

BJG/
LS # 1822
2/14/2011

TBD
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