



Legislation Text

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Res. No. 1328

Resolution in support of the Fairness in Foreclosures Act of 2011, H.R. 3566.

By Council Members James, Barron, Chin, Eugene, Jackson, Lander, Mark-Viverito, Mendez, Palma, Rose, Vann, Williams, Wills and Rodriguez

Whereas, In New York State, when a property is sold at a public foreclosure sale for less than the amount of the underlying promissory note or loan, the lender can obtain a deficiency judgment against the borrower for the difference between the price of the property at auction and the amount of the original loan; and

Whereas, Many homes foreclosed on in the last several years have failed to cover the original loan amount when they are sold due to falling home prices; and

Whereas, A motion for deficiency may be served by the holder of the promissory note or loan within 90 days of delivery of the deed used to convey the title to the property sold at a foreclosure sale; and

Whereas, Judgments for money can be enforced for a period of twenty years with applicable interest; and

Whereas, According to analysis of mortgage default and delinquency data by the Neighborhood Economic Development Advocacy Project, foreclosure risk remained distressingly high in 2011 with 94,890 mortgages at risk of foreclosure in New York City; and

Whereas, The Fairness in Foreclosures Act of 2011, H.R. 3566, would ensure both uniformity and fairness in deficiency judgments arising from foreclosures on mortgages for single family homes; and

Whereas, Under this act, no deficiency judgment derived from an obligation under a residential mortgage can be issued unless the court has determined that the foreclosure was conducted at a “commercially reasonable sale”; and

Whereas, This act reduces the total amount owed on the mortgage that a plaintiff can recover in a deficiency judgment by the price of the property at auction, or by a fair market appraisal price, whichever is greater; and

Whereas, This act would also prohibit bringing an action for deficiency judgment when the mortgagor is a member of a low-income family and would also prohibit reporting such deficiency to any consumer reporting agencies except where required by other law; and

Whereas, Federal and state government should continue to identify systemic solutions to the foreclosure crisis as homeownership in distress rises, now, therefore, be it

Resolved, That the Council of the City of New York supports the Fairness in Foreclosures Act of 2011, H.R. 3566.

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