Legislation Details (With Text)

File #:	Res 0597-2010	**Version:** *	**Name:**	Federal Housing Finance Agency to halt implementation of its proposed guidance regarding “flip taxes” or at the very least exempt NYC cooperatives and condominiums due to the detrimental effect of such proposed guidance on NYC cooperatives and condominium
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Title: Resolution calling upon the Federal Housing Finance Agency to halt implementation of its proposed guidance regarding “flip taxes” or at the very least exempt New York City cooperatives and condominiums due to the detrimental effect of such proposed guidance on New York City cooperatives and condominiums.

Sponsors:

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Date	Ver.	Action By	Action	Result
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12/8/2010	*	City Council	Referred to Comm by Council	
12/31/2013	*	City Council	Filed (End of Session)	

Res. No. 597

Resolution calling upon the Federal Housing Finance Agency to halt implementation of its proposed guidance regarding “flip taxes” or at the very least exempt New York City cooperatives and condominiums due to the detrimental effect of such proposed guidance on New York City cooperatives and condominiums.

By Council Members Weprin, Cabrera, Dromm, Fidler, Garodnick, Gentile, Jackson, James, Koppell, Koslowitz, Williams, Nelson and Koo

Whereas, The Federal Housing Finance Agency (FHFA) has proposed a change in procedures that would be reflected in a document entitled “Guidance on Private Transfer Fee Covenants;” and

Whereas, Such proposed guidance would apply to the entities regulated by the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (the Banks); and

Whereas, The language of the proposed guidance would, in short, state that entities regulated by Fannie Mae, Freddie Mac, and the Banks should not "deal in mortgages on properties encumbered by private transfer fee covenants;" and

Whereas, Such proposed guidance would also state that it is the opinion of the FHFA that such covenants "appear" to cause insecurity and unaffordability in the housing markets, as well as hurting the monetary flow of capital into the real estate market; and

Whereas, Such proposed guidance would be applicable to mortgages and securities held or guaranteed by Fannie Mae or Freddie Mac; held by the Banks as investments; or as collateral for advances; and

Whereas, In New York City such "private transfer fee covenants," colloquially, known as "flip taxes" or "transfer fees" are authorized pursuant to proprietary leases to which all shareholders in the cooperative must abide by; and

Whereas, In some cases, flip taxes are also authorized pursuant to the original offering plan, or any such subsequent amendments which are required to be filed with the New York State Attorney General pursuant to subdivision (eeee) of section 352 of the General Business Law; and

Whereas, Flip taxes are also authorized pursuant to subdivision (c) of section 501 of the Business Corporation Law, which allows cooperatives to enforce a flip tax if it is described in the original offering plan or its subsequent amendments, or if its adopted as an amendment to a proprietary lease; and

Whereas, A flip tax typically is paid to the cooperative's general fund upon the transfer of ownership of an apartment; and

Whereas, Flip taxes can be used as an alternative to increases in monthly maintenance fees or assessments on cooperative shareholders to pay for important building-wide capital improvements such as the

replacement of elevator cabs, boilers or windows, or compliance with significant façade work; and

Whereas, The revenues derived from flip taxes are not usually limited to capital expenditures but are usually mingled with all other cash assets of the coop and may be used for any lawful purpose; and

Whereas, Without the imposition of a flip tax, owners of many cooperatives who are seeking to make capital repairs to their buildings will most likely be faced with an increase in the monthly maintenance fee, substantial one-time assessments or an increased debt service through refinancing a building's mortgage or undertaking additional mortgages; and

Whereas, The guidance issued by FHFA does not take into account the unique role flip taxes play in financing capital improvements for New York's City's cooperatives; now; therefore, be it

Resolved, That the Council of the City of New York calls upon the Federal Housing Finance Agency to halt implementation of its proposed guidance regarding "flip taxes" or at the very least exempt New York City cooperatives and condominiums due to the detrimental effect of such proposed guidance on New York City cooperatives and condominiums.

BJG

LS #1565

12-3-2010