



Legislation Text

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Res. No. 990

Resolution calling upon the Federal Reserve Bank to rescind its proposed rule requiring borrowers to pay off the remaining principal on a mortgage before the lender is forced to cancel its security interest in the home.

By Council Members Vann, Brewer, James, Mealy, Mendez, Williams, Rose, Wills, Comrie, Levin, Barron, Dromm, Chin, Palma, Jackson, Dickens, Reyna, Gonzalez, Mark-Viverito, Ferreras, 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, 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 country have; and

Whereas, Whether or not this assertion is correct, since 2005, foreclosure filings in the City have more than doubled; and

Whereas, It should be a goal of the United States Government to promote home ownership and minimize foreclosures, especially those foreclosures which may be improper or fraudulent; and

Whereas, The Federal Reserve Bank (Fed) has proposed a rule pursuant to the authority delegated to the Fed by the Truth-in-Lending Act (15 U.S.C. 1604) that would not allow homeowners to use the right of rescission; and

Whereas, The right of recession is the ability of a borrower to convince a court to rescind a mortgage or home equity loan within three years of its being made on the grounds that the lender has violated the disclosure requirements set forth in the Truth-in-Lending Act (TILA) under certain circumstances, relating to the loan

amount, interest rate and repayment terms; and

Whereas, The proposed rule would reverse TILA's right of rescission by requiring a homeowner to pay off the entire mortgage amount before a creditor is required to cancel its security interest in the home; and

Whereas, The Fed has promulgated the rule due to concern over costs that banks incurred when seeking to comply with TILA, but the Fed's proposed rule may have the unintended consequence of making the right of rescission available to only the wealthiest homeowners since people who are wealthy are far more likely to have or be able to acquire the means to pay off the remaining balance on the mortgage; and

Whereas, The extended right of rescission has been an important home-saving legal tool protecting borrowers against predatory loans; and

Whereas, While many foreclosure proceedings are based on correct information there are also many instances where that has not been the case; and

Whereas, At this time of record foreclosures and reports of false filings on behalf of the financial institutions seeking to foreclose on mortgages, the Fed should not seek to aid unscrupulous or careless lending institutions who may have violated provisions of TILA by eliminating the important consumer protection of the right of rescission; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Federal Reserve Bank to rescind its proposed rule requiring borrowers to pay off the remaining principal on a mortgage before the lender is forced to cancel its security interest in the home.

BJG
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