



## Legislation Text

---

**File #:** Res 0998-2011, **Version:** \*

---

### Preconsidered Res. No. 998

Resolution supporting the New York State Attorney General's comprehensive investigation into the mortgage packaging practices of several banks and calling upon the 50 State Attorneys General Taskforce to preserve the State Attorney General's investigatory and prosecutorial powers pursuant to New York's Martin Act in any settlement with major financial institutions.

By the Speaker (Council Member Quinn) and Council Members Jackson, Gennaro, Chin, Comrie, James, Koppell, Lander, Mark-Viverito, Mendez, Nelson, Rose, Seabrook, Vann, Williams, Sanders Jr. and Halloran

Whereas, Since 2004 the United States (U.S.) has suffered from a mortgage crisis caused by a number of factors prevalent in both the housing and credit markets, including substandard underwriting practices by lenders, the prevalence of non-traditional mortgages with low initial interest rates, and an increase in private label securitization; and

Whereas, Since 2006 more than 3 million homes have been repossessed through foreclosure in the United States; and

Whereas, Nationwide as of 2010, another 2.9 million homes were in foreclosure, a 23 percent increase since 2008; and

Whereas, According to the New York State Comptroller's office, between 2006 and 2009 the number of foreclosure filings in New York City rose by 31.7 percent to 22,886; and

Whereas, A majority of New York City's residents are Black or Latino and communities of color have been disproportionately impacted by the mortgage crisis, as 8 percent of Latinos have lost their homes to foreclosures, compared to 4.5 percent of whites and measured by future risk assessments, 17 percent of Latino homeowners are at imminent risk of losing their homes, compared to 7 percent of non-Hispanic white

homeowners, according to recent studies; and

Whereas, Nationwide 22.7 percent of residential properties with mortgages are “underwater” or worth less than the mortgage on the property; and

Whereas, Following the mortgage collapse the Federal Bureau of Investigation (FBI) increased its investigation into fraudulent activities associated with the mortgage process based on an analysis of suspicious activity reports filed by federally insured financial institutions, which increased from 6,936 reports filed in 2003 to 67,190 in 2009; and

Whereas, The FBI ranked New York as one of the top ten states for known or suspected mortgage fraud activity for two consecutive years and ranked New York as one of the top ten states for reports of mortgage fraud across all originations in 2010; and

Whereas, The FBI investigations and those of other law enforcement entities, such as State Attorneys General across the U.S. investigated instances of fraud related to the origination of loans, the securitization of mortgage loans by sponsor banks, and the servicing of mortgages; and

Whereas, In October 2010 many major banks heeded the call of attorneys, stakeholders and the judiciary by placing a moratorium on foreclosure proceedings after reports of fraudulent procedural activities surfaced, including the falsification of legal documents used to initiate foreclosures also known as “robo-signing,” the inadequate handling of documents and the use of false titles; and

Whereas, Also in October 2010, 50 State Attorneys General convened an official inquiry into the robo-signing scandal; and

Whereas, As a result of such inquiry, a proposed settlement agreement between the 50 State Attorneys General Taskforce and major banks is being negotiated which would require the banks to pay a sum to be used

for homeowner loan modifications; and

Whereas, The 50 State Attorneys General Taskforce was originally convened to analyze the robo-signing fraud associated with the initiation of foreclosure proceedings and not to investigate the bundling of mortgages into securities and the representations and statements made to investors regarding the quality of such securities; and

Whereas, In New York State, pursuant to the Martin Act, the Attorney General may investigate and bring suit against financial institutions for actions taken in the course of securities-related transactions; and

Whereas, New York City is the financial capital of the U.S. where most of the nation's top financial institutions are located; and

Whereas, Based on published reports, New York State Attorney General Eric Schneiderman commenced a Martin Act investigation into the packaging of mortgage loans into securities by several major banks; and

Whereas, Attorney General Eric Schneiderman is concerned that the proposed settlement by the 50 State Attorneys General Taskforce would give the major banks a broad release from all future mortgage collapse-related litigation thereby restricting his office from proceeding with its current investigation and impede future investigations and or legal action taken in the area of mortgage security fraud; now, therefore, be it

Resolved, That the Council of the City of New York supports the New York State Attorney General's comprehensive investigation into the mortgage packaging practices of several banks and calls upon the 50 State Attorneys General Taskforce to preserve the State Attorney General's investigatory and prosecutorial powers pursuant to New York's Martin Act in any settlement with major financial institutions.

LER

8/31/11

LS#2834

