



Legislation Text

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Res. No. 1349

Resolution calling upon the 110th Congress to pass, and the President to sign, H. R. 3609, the Emergency Home Ownership and Mortgage Equity Protection Act of 2007, which would modify federal bankruptcy laws to provide relief to homeowners at risk of foreclosure.

By Council Members Dickens, Nelson, Comrie, Eugene, Fidler, Gonzalez, Jackson, James, Koppell, Liu, Mealy, Palma, Weprin and Mark-Viverito

Whereas, According to the Center for Responsible Lending, the subprime mortgage market has placed 2.2 million families at risk of foreclosure, very few of which will be able to sell or refinance their homes; and

Whereas, Approximately 50,000 homeowners in New York City hold subprime mortgages; and

Whereas, Holders of subprime mortgages verging on foreclosure may sometimes seek to file for bankruptcy in order to be relieved of their debts; and

Whereas, Bankruptcy filings reached almost 819,000 in 2007, and are expected to exceed one million in 2008; and

Whereas, In a bankruptcy filed under chapter 13, a debtor typically undergoes a reorganization of his or her financial obligations under the supervision of a federal bankruptcy court and retains his or her property; and

Whereas, The U.S. Bankruptcy Code currently denies bankruptcy judges authority to modify secured debts on homeowners' primary residences, but permits them to modify loan obligations to corporations or on investment properties, vacation homes and boats; and

Whereas, Over the past two and a half years, home sales have decreased 35 percent and house prices have decreased 8 percent; and

Whereas, Despite the downturn in the housing market and declining property values, lenders remain hesitant to allow delinquent borrowers to sell their homes at a value lower than that of the mortgage; and

Whereas, Loan servicers, who have the ability to modify mortgage loans, modified only 3.5 percent of the subprime adjustable rate mortgages due to reset in the first 8 months of 2008; and

Whereas, In September 2007, United States Representatives Brad Miller and Linda Sánchez introduced H.R. 3609, the Emergency Home Ownership and Mortgage Equity Protection Act of 2007, which would modify the terms of nontraditional and subprime home mortgages for borrowers who enter into chapter 13 bankruptcy; and

Whereas, If passed, H.R. 3609 would permit judicial modification of debts secured by debtors' primary residences and would modify, in certain circumstances, the credit counseling requirement for debtors who have filed for chapter 13 bankruptcy; and

Whereas, By including primary residences in the purview of the bankruptcy court, H.R. 3609 would empower a bankruptcy judge to reduce the value of a lien owed on a principal residence to its fair market value without the necessity of a creditor's cooperation; and

Whereas, H.R. 3609 would also enable bankruptcy judges to modify interest rates and prepayment penalties and to relax the timeframe within which claims secured by a debtor's primary residence could be repaid; and

Whereas, H.R. 3609 would limit abuse of Chapter 13 bankruptcy filing by imposing a strict means test to ensure that only homeowners who lacked sufficient income to meet their mortgage obligations would enjoy relief; and

Whereas, H.R. 3609 would also provide protection to the lender by requiring bankruptcy courts to set interest rates at a fair market rate, and by limiting the reduction of the principal value of the loan to the market value of the property; and

Whereas, H.R. 3609 would only provide relief to existing subprime and non-traditional loans originated between January 1, 2000 and the effective date of the bill, and would be subject to a seven-year sunset; and

Whereas, According to the Center for Responsible Lending, H.R. 3609 would help maintain property

values in neighborhoods with homes at risk of foreclosure, and would guarantee that lenders receive at least the market value of the home; and

Whereas, H.R. 3609 has the capacity to help 600,000 individuals keep their homes; and

Whereas, This legislation would also benefit homeowners whose property values might decrease if their neighbors enter into foreclosure; and

Whereas, Mark Zandi, Ph.D, Chief Economist of Moody's Investors Service, has estimated that, if enacted, H.R. 3609 would not have a significant impact on the cost of mortgage credit or on secondary markets; and

Whereas, H.R. 3609 enjoys the support of various consumer advocacy and civil rights organizations, including the AARP, the Center for Responsible Lending, The Consumer Federation of America, The AFI-CIO and The National Council of La Raza; now, therefore be it

Resolved, That the Council of the City of New York calls upon the 110th Congress to pass, and the President to sign, H. R. 3609, the Emergency Home Ownership and Mortgage Equity Protection Act of 2007, which would modify federal bankruptcy laws to provide relief to homeowners at risk of foreclosure.

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