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Res. No. 1808

Resolution calling upon the United States Congress to amend the Biggert-Waters Flood Insurance Reform Act of 2012.

By Council Member Ulrich, the Speaker (Council Member Quinn), Chin, Brewer, Barron, Jackson, Mark-Viverito, Williams, Dickens, Gennaro, Greenfield and Van Bramer

Whereas, In 1968, Congress passed the National Flood Insurance Act, which created the National Flood Insurance Program ("NFIP") to provide a means for property owners in flood-prone areas to financially protect themselves from floods; and

Whereas, Homeowners, renters and businesses in NFIP participating communities are able to, and in many cases required to, purchase flood insurance; and

Whereas, In order to participate in NFIP, communities must adopt and enforce federally mandated requirements, including the adoption of Flood Insurance Rate Maps ("FIRMs"); and

Whereas, FIRMs are the official maps, created by the Federal Emergency Management Agency ("FEMA"), used by a community to identify areas most prone to flooding and to set insurance rates and requirements accordingly; and

Whereas, Since its inception, the NFIP has offered lower premium rates to property owners under certain circumstances; and

Whereas, Properties with buildings that were constructed before their community adopted its first FIRM or that were in compliance with an existing FIRM at the time the building was constructed, but that now have an increased flood risk according to a current FIRM, formerly benefited from subsidized rates; and

Whereas, On July 6, 2012, President Obama signed into law the Biggert-Waters Flood Insurance

Reform Act of 2012 (the "Act"), which reauthorizes the NFIP through September 30, 2017, and significantly alters the way flood insurance premium rates are calculated; and

Whereas, The Act requires premium rates for all properties located in NFIP participating areas to accurately reflect the current actuarial risk to such property from floods; and

Whereas, Eventually, the Act will eliminate all subsidies and grandfathered rates, commonly referred to as Pre-FIRM subsidies; and

Whereas, FEMA recently released Preliminary Work Maps which are predictive of the new FIRMs expected to be adopted within the next two years; and

Whereas, The Preliminary Work Maps reflect current flood risk more accurately than the existing FIRMs, which were last updated in 2007; and

Whereas, According to the Preliminary Work Maps, the areas in the City at risk of flooding are expected to increase and the number of total properties in flood hazard areas is expected to nearly double from approximately 35,000 to 67,000 when the new FIRMs are adopted; and

Whereas, Under the Act, when FEMA adopts its new FIRMs, properties that had been receiving subsidized rates will now be required to pay actuarial-based premium rates that will be phased in over a five-year period at 20 percent per year, while newly mapped properties may be required to pay actuarial-based premium rates immediately; and

Whereas, The NYC Special Initiative for Rebuilding and Resiliency, an initiative created after Superstorm Sandy to consider how the City can be better protected against future natural disasters, estimates that premiums for buildings currently located in flood zones could increase by 2 to 10 times their current cost under a new FIRM; and

Whereas, For example, once the new premiums apply, a homeowner currently paying a premium of $1,410 per year whose home is four feet below the Base Flood Elevation ("BFE"), according to the new FIRM, would have an actuarial premium of $9,500 per year; and

Whereas, Under the five-year phase-in currently being proposed, the homeowner in that example would have to pay an annual increase of $1,618 per year until $9,500 is reached; and

Whereas, The Act requires that the Government Accountability Office ("GAO") conduct a study and report to Congress on Pre-FIRM structures and the options for eliminating the subsidy to such structures; and

Whereas, The GAO study has been delayed for as much as two years; and

Whereas, When the study is released, it may show that the elimination of Pre-FIRM subsidies was unnecessary and overly burdensome on the poor and middle class; and

Whereas, At the conclusion of the GAO study, if the elimination of subsidies is found to be necessary, the Act should be amended to reduce the 20 percent premium rate increase per year the bill imposes as it will rapidly increase premiums for property owners; and

Whereas, Further, the Act would remove subsidized rates upon the lapse of a policy, purchase of a new policy or the sale of a property; and

Whereas, For the approximately 32,000 properties that find themselves in the floodplain for the first time when the new FIRMs are adopted, actuarial rates may be effective immediately, as entering into a new policy after such date triggers actuarial rates; and

Whereas, The Act should be amended to allow newly mapped properties to participate in the phase-in of the actuarial rate without requiring them to purchase a preferred-risk policy prior to the adoption of the final FIRM; and

Whereas, For buyers wishing to purchase a property in an NFIP participating area after the new FIRMs are adopted, actuarial rates will be effective immediately even if that home would have been eligible for a gradual phase in prior to its sale; and

Whereas, The Act should be amended to allow for current subsidized rates to continue upon the sale of a property, allowing the new buyer to participate in the phase-in of the actuarial rate, as prospective buyers will likely be deterred from purchasing homes in flood-prone areas when they factor in the monthly cost of flood

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insurance at an actuarial rate; and

Whereas, The NFIP should allow for higher deductibles; and

Whereas, Current baseline deductibles start at $1,000 and $2,000 depending on whether the building is a Post-FIRM or Pre-FIRM construction, respectively; and

Whereas, Allowing the deductible for 1 to 4 family homes to be raised to $4,000 could reduce premium rates up to 15 percent, and raising the deductible for 1 to 4 family homes to $50,000, as is permitted for other residential and non-residential buildings, could reduce their premiums rates up to 43.5 percent; and

Whereas, The NFIP should reduce premiums for partial mitigation and building type; and

Whereas, Currently, the only factors for determining flood premiums post-Biggert-Waters are the flood zone and the elevation of its lowest occupied floor relative to BFE; and

Whereas, Elevating a building or vacating the ground floor are cost-prohibitive or, in some cases, impossible with the majority of NYC's building stock; and

Whereas, There are other factors which determine a building's actual risk for flood loss including construction materials, foundation type and whether the mechanicals have been elevated; and

Whereas, NFIP should give owners credit for the actual risk-mitigating alterations they make to their buildings; and

Whereas, The NFIP should treat cooperatives the same as condominiums; and

Whereas, Currently, condominium associations are able to receive separate policies for each of its units, however, cooperatives are only able to receive one policy for the entire building, leaving NYC cooperatives under-insured; and

Whereas, Unless the Act is amended, it will undoubtedly have huge implications for coastal areas in NYC by reducing property values in coastal communities and imposing economic hardships on property owners; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to amend the

Biggert-Waters Flood Insurance Reform Act of 2012.

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GP
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