



MEMO OF OPPOSITION

S6544 (Martinez)

Enables IDAs to Provide Housing Tax Breaks

February 8, 2024

TITLE OF BILL

An act to amend the general municipal law and the public authorities law, in relation to making housing a policy of the state of New York.

SUMMARY OF PROVISIONS

Section 1 amends General Municipal Law (GML) §852 to include increasing housing stock as part of the State's goals under the NYS Industrial Development Act.

Sections 2, 6, and 9 add housing to definitions of project under GML §854(4)), Public Authorities Law (PAL) §1951(5), and PAL §2302(5) respectively.

Sections 3, 7, and 10 add housing to the purposes of authorities under GML §858, §PAL §1953, and PAL §1963-a(1) respectively.

Section 4 includes whether a project increases housing stock as part of what IDAs must consider when evaluating whether to provide tax incentives for a project (GML §858-a(5)(b)).

Section 5, 8, and 11 provide that authority guidelines shall include the extent of housing stock created under GML §874(4), PAL §1963-a(1), and PAL §2315(1).

Section 12 states that the bill takes effect immediately.

STATEMENT OF OPPOSITION

Reinvent Albany strongly opposes this bill, which we believe is bad policy and unconstitutional.

Bad Policy

This bill seeks to change the mission of Industrial Development Authorities to include building housing. However, the bill is inconsistent with the NYS Constitution because it does not explicitly state that IDAs can only be allowed to help build housing for “low-income persons.” Thus the bill will create further confusion about the legality of IDA subsidies to housing projects. (New York State uses the federal Housing Urban Development [classification](#) of “low-income” as 80% or less of the Area Median Income [AMI]. We note that “low-income” is not the same as “affordable housing.”)

IDAs were created in 1969 to promote “economically sound commerce and industry.” Article 18-A of the General Municipal Law lists specific potential activities for IDAs including various ways to promote “manufacturing, warehousing, commercial and research facilities.” The law pointedly does not include subsidizing housing as part of the mission of “industrial” development authorities. Currently, IDAs are structured to subsidize for-profit businesses – not housing for low-income people, which in most cases may never turn a profit or break even.

Reinvent Albany believes IDAs’ ideology, experience, and outlook makes them the wrong part of government to be creating housing, especially low-income housing – which is more of a social service than a job creation program. Further, we believe it is illegal for IDAs to be subsidizing anything other than potentially low income housing, though they are anyway. A study by the IDA trade group, the Economic Development Council found that [only 25% of units subsidized by IDAs were “affordable”](#) – and even the affordability of these apartments is [questionable](#).

We note that there are numerous public authorities already dedicated to fostering affordable housing, including:

State Authorities

- Homeless Housing Assistance Corporation
- Housing Trust Fund Corporation
- New York State Affordable Housing Corporation
- New York State Housing Finance Agency

Local Authorities

- New York City Housing Development Corporation
- New York City Public Housing Preservation Trust

Local Development Corporations

- Albion Housing and Economic Development Corporation
- Ulster County Housing Development Corporation

Why add IDAs to this extensive list of housing-related authorities? IDA tax breaks already drain [\\$1.8 billion a year](#) from public schools in New York State. We believe it is completely illogical to allow IDAs to give away yet more local property tax revenue to encourage housing that will draw more residents and create more demands on public schools and other services.

Our take is that IDA subsidies are politically attractive because they are off-budget and appear to be free money – but there is no such thing as a free subsidy or free money. What is really happening here is a complicated shifting of the costs of low-income housing away from the very large and diverse state tax base to local governments and local schools that rely on property taxes. Housing for low-income people is essential, and it's worth paying for with real, on-budget tax dollars, not fiscal gimmicks.

The Constitution

Reinvent Albany believes Article VII and Article XVIII of [the New York State Constitution](#) make it very clear that Industrial Development Authorities can only subsidize housing for “persons of low income.”

Article VII of the New York State Constitution speaks to economic development and authorizes the State to finance or fund businesses, and for the State to do things like pass the 1969 law creating Industrial Development Authorities.

Importantly, Article VII Section 8(3) specifically prohibits public corporations, including Industrial Development Authorities, from subsidizing housing (emphasis added):

*Such plants, buildings or facilities or machinery and equipment [financed by public corporations] therefor **shall not be...(ii) used primarily as a hotel, apartment house or other place of business which furnishes dwelling space or accommodations to either residents or transients***

Article XVIII of the State Constitution is dedicated to housing. Article XVIII Section 1 authorizes the State Legislature to provide for:

Low rent housing and nursing home accommodations for persons of low income as defined by law, or for the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas, or for both such purposes.

Article XVIII Section 6 emphasizes that any state housing aid is restricted to low-income housing:

The occupancy of any such project shall be restricted to persons of low income

Article XVIII Section 10 makes clear that housing subsidies are for low-income people:

Nothing in this article contained shall be deemed to authorize or empower the state, or any city, town, village or public corporation to engage in any private business or enterprise other than the building and operation of low rent dwelling houses for persons of low income or the loaning of money to owners of existing multiple dwellings as herein provided.

We urge Senators to vote NO on this bill.