

# Legal Assistance Resource Center

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### S.B. 102 -- Prohibition of municipal building standards

Planning and Development Committee public hearing -- February 22, 2012

Testimony of Raphael L. Podolsky

**Recommended Committee action: FURTHER REVIEW OF THE BILL**

We are concerned that, as presently drafted, this bill may unintentionally preempt some municipal codes that it is not intended to preempt. We urge the Committee to review further the precise language of the bill and to make changes to assure that no unintended preemption occurs. We are available to assist the Committee, if it wishes us to do so.

The bill's purpose, as explained to us, is to prevent municipalities from imposing construction standards that are not part of the State Building Code. The bill is explicit that it does not apply to certain forms of regulation by municipal "housing" codes. It contains no other exceptions. We have been told that it is not intended to prevent municipalities from imposing building standards on matters not covered by or not regulated by the State Building Code. We are worried, however, that it could be misinterpreted to restrict local historic preservation or design review codes (which may impose materials and design requirements not required by the State Building Code) or maintenance requirements in non-residential or mixed-use buildings.

To avoid these unintended consequences, we urge the Committee to consider clarifying changes to the bill such as the following:

- \* In l. 131-134, revise the "housing code" exception to cover non-residential properties and make explicit that the bill does not preempt preservation codes:

The provisions of this subsection shall not apply to any municipal [~~housing~~] code that regulates the maintenance, sanitation, ventilation, appearance, HISTORICAL OR ARCHITECTURAL CHARACTER or other condition of any building [~~intended for residential use~~].

- \* In l. 128-131, limit preemption to methods of construction:

Any provision of a municipal ordinance or regulation that requires any building code or construction METHOD [~~standard~~] other than those contained in the State Building Code is superseded and shall be of no force or effect.

- \* In l. 116, conform the bill's zoning provisions to the revised language in l. 131-134:

Such regulations shall not provide for any building code or construction METHOD [~~standard~~] other than those contained in the State Building Code, TO THE EXTENT SO PROVIDED IN SUBSECTION (b) OF SECTION 29-253.