



Lawsuit Reform Alliance of New York

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OPPOSE

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|-----------------|----------------------------------|
| BILL: | S.167 (RIVERA) / A.5439 (Weprin) |
| SUBJECT: | Expansion of the Martin Act |
| DATE: | March 3, 2017 |
| CONTACT: | Adam Morey |

Summary:

This bill would authorize private attorneys to file lawsuits on behalf of a public retirement system, mutual fund, or other institutional investor for alleged violations of the Martin Act. As it stands, the Martin Act grants the Attorney General excessive and extraordinary powers to investigate and pursue alleged wrongdoing associated with the purchase and sale of securities. The Lawsuit Reform Alliance of New York strongly opposes any expansion of the Martin Act.

Why we oppose this legislation:

Expanding the Martin Act is unnecessary

- Current Federal law provides institutional investors a damage remedy under the Private Securities Litigation Reform Act, and the Attorney General already has the power to investigate and compensate on behalf of investors, including pension funds. Further, the Court of Appeals in *Assured Guaranty (UK) Ltd. v. J.P. Morgan Investment Management Inc.*, held the Martin Act did not preempt private common law claims, saying “an injured investor may bring a common-law claim (for fraud or otherwise),” and noted that the Martin Act does not extinguish common-law remedies.

Private attorneys lack accountability

- Trial attorneys and institutional litigants are not accountable to the citizens of New York, and should not be empowered as if they were. As New York’s top elected law enforcement official, the people of the state of New York have consented to give the Attorney General the power to defend taxpayers against securities fraud, and ensure that New York has an open and fair business environment. This legislation would serve only the interests of a very small constituency with the power that was only intended for the Attorney General.

Proposal would devastate the economy

- The proposed legislation would have a devastating impact on the business climate in New York State. In a time when attracting new businesses to the state to create jobs and otherwise improve the economic climate is paramount, this proposed bill would crush innovation and job creation. Extending the broad prosecutorial powers of the Attorney General to private attorneys would make New York a breeding ground for class action lawsuits, potentially costing thousands of jobs and millions in tax revenue—and could potentially litigate some companies out of existence.

The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, professionals, health care providers, membership organizations, and taxpayers dedicated to reforming the legal system in order to foster a better business climate, promote job growth, and address the growing cost of lawsuit abuse.