New York Taxpayer and International Debt Crises Protection Act (NYTIDA), or S.4747/A.2970 – Frequently Asked Questions

What is the New York Taxpayer and International Debt Crises Protection Act or NYTIDA?

The majority of the world's private debt is governed by New York law because New York is the financial capital of the world. The New York Taxpayer and International Debt Crises Protection Act supports debt relief for developing countries approved by the US government and other public institutions. The bill protects US taxpayers from bailing out private debt holders and protects our pensions. Because the countries that receive debt relief are New York and US trading partners, the bill helps address inflation, supply shocks and the rising price of food and fuel.

Who supports NYTIDA?

The New York AFL-CIO, the New York State Catholic Conference, the New York Council of Churches, AFSCME, the New York State Public Employees Federation, Oxfam America, Bread for the World, the ONE Campaign, Puerto Rico’s religious leaders, Jubilee USA Network and African, Asian and Latin American development organizations are among hundreds of groups supporting The New York Taxpayer and International Debt Crises Protection Act (S.4747/A.2970).

How does NYTIDA protect the interest of New York taxpayers, residents and consumers?

A primordial interest in NYTIDA: The State of New York ensures that New York, Puerto Rico and US taxpayer funding of international debt relief does not bailout private creditors. Mechanisms that leave uncertain whether there will be comparability of treatment between the private and public sector would fail to adequately protect taxpayers' interest.

The passage of Hoylman/Fahy’s Act can reduce prices for New York, US and Puerto Rico consumers of commodities such as eggs, flour and coffee.

The bill also protects the smooth functioning of available mechanisms for avoiding, mitigating or resolving international debt crises and, with it, the international financial system stability critical to prosperity in NY’s financial center. The bill seeks to maintain the importance and pertinence of New York as the world’s financial capital. Given the unwillingness of private creditors to participate in debt relief initiatives, there is a growing risk that taxpayers withdraw support for public leadership in such initiatives. Without such leadership, the sovereign debt restructuring machinery would collapse. Measures that do not provide the public this confidence on parity participation by the private sector would fail to protect this public interest.
When sovereign debt crises occur, they have a direct knock-on effect on the state’s taxpayers and consumers, and their effects on financial markets and payment systems disproportionately affect the economy. The effects can range from the economic – supply-side disruptions, inflationary impacts – to health issues like the spread of a pandemic. So the state has a legitimate interest and obligation to facilitate the prompt resolution of such crises. Part of the effectiveness of NYTIDA is that it deals with multiple countries and crises all at once, in an expedient manner.

**Why NYTIDA is an efficient and expedient vehicle to resolve developing country debt crises and prevent predatory activity?**

Because it is specifically tailored to deal with the current global crises in developing countries, where private creditors are refusing en masse to join multiple debt relief agreements led by every Democratic and Republican administration since 1997. One of multiple agreements, is the G20 Common Framework. Present, previous and future debt relief initiatives are covered.

Given the expeditiousness of a treatment approach as proposed by the **NY Taxpayer and International Debt Crises Protection Act**, introduced by Senators Brad Hoylman-Sigal and Assemblymember Patricia Fahy, can immediately, without years of implementation: lift the rights of workers, increase social safety nets and reduce poverty, food insecurity and inequality in almost all countries across the world.

While other initiatives that we support deal with the obligation and changing debt contract clauses, given the current global crises in most countries an immediate and comprehensive approach is warranted for Latin America, the Caribbean, Africa and Asia. In the current environment where the majority of the private sector is holding out en masse, the majority or supermajorities to agree to change contract clauses are hard to find and is why immediate solutions that ensure private creditor participation and their treatment must move forward expeditiously. While we support effective legislative remedies that will deal with restructuring the contract obligation, it will take time and budget requests to support it. Even discounting the budget and infrastructure implementation time to create new debt restructuring processes, agreements under these processes take several years to conclude. **Thus, the New York Taxpayer and International Debt Crises Protection Act (S.4747/A.2970) is the most effective and efficient approach.**

**Does the legislation benefit pension and other institutional investors?**

Yes. The bill protects the long-term performance of savings in pension funds and other institutional investors. By facilitating NYTIDA's more efficient debt resolution for countries, the costs of debt crises are reduced and economic growth resumes more quickly. These effects also bring positive impacts on investments in domestic companies that do business with such countries.

**How does the legislation benefit Puerto Rico?**

Religious leaders in Puerto Rico as well as the Speaker of the Puerto Rico House strongly support NYTIDA. The legislation has a positive effect for inflation, food costs, and economic and supply shocks to
the island, where they are felt uniquely due to high poverty rates. Nearly 60% of children live in poverty on the island. The law additionally protects Puerto Rico taxpayers from bailing out the private sector, when the private sector refuses to participate in debt relief efforts.

NYTIDA benefits Puerto Rico by reducing the length and cost of crises in Caribbean and Latin America countries, which have close cultural, economic and personal ties with Puerto Rico. While Puerto Rico is subject to additional import expenses due to the Jones Act, those expenses are even higher because of the debt challenges and crises that Puerto Rico's Latin American and Caribbean neighbors face. Puerto Rico depends on commodities and goods from Latin America from food to fuel to bibles. All of the base export costs are up dramatically, meaning that Puerto Rico is even facing higher expenses given the debt crises of its neighbors. Since the majority of all Latin American bonds are governed under New York law, as NYTIDA addresses debt challenges across Latin America, Puerto Rico reaps significant import cost reduction benefits.

Additionally, NYTIDA enables larger-scale actions worldwide to stop climate change, that islands like Puerto Rico are deeply suffering from.

Puerto Rico knows debt crises and austerity measures well, and in 2015 experienced a dramatic default on $72 billion of debt. As a response, in 2016 Congress passed special federal legislation that governs in an exclusive way bankruptcy processes in Puerto Rico, as well as the other territories. Therefore no New York State level initiative has jurisdiction to influence such processes, at least in the short term. However, NYTIDA sets a path for future reforms in creating bankruptcy and debt relief protections for the island.

**Does NYTIDA apply only to G20 Common Framework countries?**

NYTIDA is not only applicable to Common Framework cases, but also to an important range of international debt relief initiatives supported by the US government as part of a 25-year cornerstone of bipartisan US policy. Expertly written, S.4747/A.2970 comprehensively covers many current initiatives. For instance, Sri Lanka is not one of the current 73 Latin American, Asian, Caribbean and African countries covered by the US led Common Framework. But the international community cooperation efforts to address Sri Lanka's debt crisis would squarely trigger the bill's applicability. This is similar to what can be triggered for every African, Asian, Caribbean or Latin American country once they announce ANY debt crisis. Paris Club, OECD and IMF agreements fit the definition and will be covered by NYTIDA as well for ALL countries. Essentially, any debtor, anywhere, that needs to undergo a debt restructuring where public creditors are involved will be under the scope and the efficacy of the law.

More importantly, NYTIDA will remain a necessary treatment complement to initiatives, should they come in the future as evolutions or outright replacement of the Common Framework. In no way does this come into competing with future, different legislative obligation initiatives, but actually will make those initiatives much stronger and more effective. While leaders have ratified their support for the Common Framework as the current vehicle to provide debt relief, as seen in the G20 Summit (November 2022) and statements from creditors and debtors during the October 2022 IMF/World Bank Annual Meetings, they recognize that it needs improvements. For instance, many stakeholders, including the US representatives, favor opening the Common Framework beyond the 73 countries that can currently avail themselves from it. NYTIDA would remain applicable if that happens. Another concern that hamstrung the effectiveness of the Common Framework is, precisely, one that NYTIDA is trying to address: lack of fair burden-sharing by
public and private creditors. But it's imperative to note, that the Common Framework remains only a small part of NYTIDA's scope and efficacy. The bill, structured by the world's foremost and best debt experts, will immediately and positively assist all countries and regions in crisis - including the United States and Puerto Rico.

**NYTIDA is modelled on United Kingdom law. Does that work in the US context?**

Of course. Simply put, England is a financial jurisdiction and the State of New York is a financial jurisdiction.

Many of the laws that states and countries have today are based on the laws of other states and countries. The entire discipline of international comparative law exists to study laws in different jurisdictions and how they can be useful and relevant in countries different from where they originally emerged. Moreover, world leaders often agree on initiatives after which parliaments must pass legislation to implement them. Inevitably the legislations in such cases will be similar, not because they are taken from the other country, but because they embody the same principles the respective leaders jointly committed to implement.

One should add that England, as the second debt contracts governing jurisdiction in the world by volume of issuance, and another major financial center, bears more comparability to New York than any other jurisdiction possibly could.

Perhaps one of the great advantages of NYTIDA is that due to how judges make decisions on comparative law, in the other smaller financial jurisdictions, they can immediately issue judgments on New York law, even if the judges preside in other countries. As lawyers, policy and legislative experts point to - a powerful impact of NYTIDA impacts global comparative law.

**Why trust public creditors to set the standard for debt relief?**

Historically public creditors have taken the lead on debt restructurings. In turn, both public and private creditors rely on IMF-provided debt sustainability assessments and are unlikely to participate in a debt restructuring without one. This is because creditors trust the IMF and see it as a guarantor of the country’s ability to repay. Neither NYTIDA, nor any other bill introduced in a US state, has control over that perception or can force them to accept the assessment of a different agency as equally reliable.

Public creditor deals based on IMF debt sustainability assessments, while not perfect, tend to result in more debt relief than achievable in processes where private creditors have more leverage. An illustrative case is Zambia, a Common Framework case right now, where the private sector claims that the IMF assessment overstates debt relief needs and refuses to contribute on the share required. The same dynamic took place in Argentina’s 2020 debt restructuring. Beyond the recent anecdotal evidence, analyses of debt restructuring over the years shows that the private sector extracted on average 20% better terms from the debtors than public creditors. To expect that history will make a U-turn and private creditor majorities will begin delivering more debt relief than public-led debt relief initiatives is a reckless bet.
Importantly, by putting private creditor contributions to debt relief on an equal footing with public ones, NYTIDA sets a clear and objective standard for debt relief and burden-sharing whose fairness can hardly be questioned. This is a distinction why NYTIDA is not only quicker and more efficient than any other proposal, but actually more effective and much more comprehensive given the current US and global crises.

NYTIDA is comprehensive and can address numerous issues about the debt sustainability assessments we have in place today. The bill is designed to automatically integrate any improvements to such methodologies in the future, or any other way the international community and creditors decides to assess debt sustainability. For example, as we win rights for countries to get additional assessments, NYTIDA is the only model that allows us to create additional tools and assessments for countries in Latin America, the Caribbean, Africa and Asia – even Europe.

**Can the legislation face constitutional challenges?**

No. Testing, working with the top legal experts in the field, illustrates that the NY Taxpayer and International Debt Crises Protection Act does not impair or change contracts, thus affirming S.4747/A.2970 will not face constitutional or legal challenges. The Hoylman/Fahy Act operates by only affecting the remedy that may be had under New York State law.

**Does NYTIDA force countries to take IMF loans and implement IMF austerity/ budget cuts policies that harm their most vulnerable?**

No. Never. No. As the IMF is a key provider of lending in emergency situations where other sources of funding already dried up for the borrower, and also an actor who signals creditors trust, a country in a debt crisis will frequently seek an IMF loan, which comes with conditions. That is a reality independent to NYTIDA.

However, by putting private creditor contributions to debt relief on an equal footing with public ones, NYTIDA stands to increase debt relief and, simultaneously, reduce the weight of the budget cuts that a borrower may be required to bear. Further, the legislation immediately protects New York and US taxpayers for the coming deluge of New York and US taxpayer bailouts for the private sector.

**Why support the New York Taxpayer and International Debt Relief Act?**

Support NYTIDA because it is one of those rare pieces of legislation that hits all the marks: The New York Taxpayer and International Debt Relief Act is pro-people, pro-business, pro-labor, pro-United States, pro-investment and pro-planet.