STATE OF NEW YORK

643--A

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. GONZALEZ-ROJAS, DAVILA, WEPRIN, GALLAGHER, SHRESTHA, REYES, EPSTEIN, SEPTIMO, ROSENTHAL, SIMONE, SHIMSKY, LUCAS, RAGA, DE LOS SANTOS, SIMON, MEEKS, BURDICK, MAGNARELLI, KELLES, HYNDMAN, STECK, ROZIC, LEE, MITAYNES, HOOKS, ROMERO, VALDEZ, LEVENBERG, ALVAREZ, JACKSON, STIRPE -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the judiciary law and the civil practice law and rules, in relation to the purchase of claims by corporations or collection agencies and to certain instruments calling for payment of a monetary obligation by a foreign state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative intent. The intended purpose of this act is to restore the champerty defense in sovereign debt lawsuits for claims greater than $500,000 with respect to suits brought by litigious holdout investors. The restoration is not intended to apply to conventional and generally cooperative investors who may occasionally choose to sue, where "conventional investors" includes investors that regularly buy and hold sovereign debt purchased in the primary market and "cooperative investors" includes distressed debt investors that regularly purchase debt at a discount in the secondary market and have a record of supporting the consensual resolution of sovereign debt distress through serving as a member of creditor committees or by generally participating in transactions accepted by other creditors following a negotiation.

§ 2. Subdivision 2 of section 489 of the judiciary law, as added by chapter 394 of the laws of 2004, is amended to read as follows:

2. Except as set forth in subdivision three of this section, the provisions of subdivision one of this section shall not apply to any assignment, purchase or transfer hereafter made of one or more bonds,

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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promissory notes, bills of exchange, book debts, or other things in action, or any claims or demands, if such assignment, purchase or transfer included bonds, promissory notes, bills of exchange and/or book debts, issued by or enforceable against the same **eligible** obligor (whether or not also issued by or enforceable against any other **eligible** obligors), having an aggregate purchase price of at least five hundred thousand dollars, in which event the exemption provided by this subdivision shall apply as well to all other items, including other things in action, claims and demands, included in such assignment, purchase or transfer (but only if such other items are issued by or enforceable against the same **eligible** obligor, or relate to or arise in connection with such bonds, promissory notes, bills of exchange and/or book debts or the issuance thereof). **For the purposes of this subdivision, the term "eligible obligor" means an obligor other than (i) the government of any foreign country or of any political subdivision of a foreign country, or (ii) an issuer of a bond, loan, or debt instrument guaranteed by the government of any foreign country or of any political subdivision of a foreign country.**

§ 3. Section 489 of the judiciary law is amended by adding a new subdivision 4 to read as follows:

4. For purposes of subdivision one of this section, an assignee's intent and purpose in taking an assignment of a claim against an obligor that is not an eligible obligor may be inferred from the history of the assignee's (and its affiliates') behavior in transactions involving the debts of other obligors including, but not limited to, whether that history indicates a pattern of either (a) participating in good faith alongside other creditors in consensual resolutions of such situations or (b) acquiring claims against such obligors at a significant discount from face value, refusing to participate in consensual workouts and instead resorting to legal enforcement of the acquired claims. A court shall consider such other facts and circumstances related to the acquisition of the claims or the assignee's overall business activities in the debt of any government or political subdivision of a foreign country as it may find relevant in assessing the assignee's intent and purpose.

§ 4. Section 5004 of the civil practice law and rules, as amended by chapter 831 of the laws of 2021, is amended to read as follows:

§ 5004. Rate of interest. (a) Interest shall be at the rate of nine per centum per annum, except where otherwise provided by statute; provided the annual rate of interest to be paid in an action arising out of a consumer debt where a natural person is a defendant shall be two per centum per annum (i) on a judgment or accrued claim for judgments entered on or after the effective date of [~~the~~] chapter **eight hundred thirty-one** of the laws of two thousand twenty-one [~~which amended this section~~], and (ii) for interest upon a judgment pursuant to section five thousand three of this article from the date of the entry of judgment on any part of a judgment entered before the effective date of [~~the~~] chapter **eight hundred thirty-one** of the laws of two thousand twenty-one [~~which amended this section~~] that is unpaid as of such effective date.

(b) **For actions or proceedings commenced after May fifteenth, two thousand twenty-four, excluding actions or proceedings with respect to payment defaults that occurred before May fifteenth, two thousand twenty-four, the annual rate of interest to be paid in an action arising out of a claim against (i) a government of any foreign country or of any political subdivision of a foreign country, or (ii) an issuer of a bond, loan, or debt instrument guaranteed by the government of any foreign country or of any political subdivision of a foreign country as a** defendant shall be equal to the weekly average one-year constant maturity treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week proceeding the date of entry of the judgment awarding damages (28 U.S.C. §1961(a)). For the purpose of this subdivision, a "claim against a foreign state" means a payment claim against a foreign state for monies borrowed or for the foreign state's guarantee of, or other contingent obligation on, monies borrowed; the term "monies borrowed" shall include the following, whether or not it represents the borrowing of money: monies owing under bonds; debentures; notes, or similar instruments of original maturity of at least one year; monies owing for the deferred purchase price of property or services, other than trade accounts payable arising in the ordinary course of government operations; monies owing on capitalized lease obligations; monies owing on or with respect to letters of credit, bankers' acceptances, or other extensions of credit of original maturity of at least one year.

(c) For the purpose of this section "consumer debt" means any obligation or alleged obligation of any natural person to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment, including, but not limited to, a consumer credit transaction, as defined in subdivision (f) of section one hundred five of this chapter.

[~~(c)~~] (d) This section does not affect or create any rights or remedies related to any amounts paid prior to the effective date of this subdivision, including amounts paid to satisfy judgments or to accrued interest or fees paid, or with respect to judgments satisfied prior to the effective date of this subdivision. For amounts paid prior to the effective date of this subdivision and lawfully applied in satisfaction or partial satisfaction of interest or fees accrued prior to the effective date of this subdivision, this section shall not be construed to require a judgment creditor or sheriff to (i) return or refund such amounts to judgment debtors; or (ii) apply such payments to satisfy any part of a money judgment other than fees or interest upon judgment pursuant to section five thousand three of this article.

[~~(d)~~] (e) If any word, phrase, clause, sentence, paragraph, subdivision, or part of this section or its application to any person or circumstance is held invalid by any court of competent jurisdiction after exhaustion of all further judicial review, the invalidity shall not affect, impair, or invalidate the remainder of this section or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

§ 5. This act shall take effect immediately.