

STATE OF NEW YORK

10595

IN ASSEMBLY

July 6, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Fahy) --
read once and referred to the Committee on Judiciary

AN ACT to amend the debtor and creditor law, in relation to the recoverability of sovereign debt

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

1 Section 1. Legislative findings and intent. The legislature finds that
2 it is a longstanding policy of the United States and the state of New
3 York, as the world's leading financial center, to support orderly,
4 collaborative and effective international debt relief for developing
5 countries with unsustainable levels of debt. Debt distress, debt crises,
6 and disorderly default are associated with unacceptable human suffering,
7 economic decline, and financial market and payment systems disruption.
8 Moreover, debt restructuring is ineffective and does not lead to
9 sustainable outcomes when it is not perceived as equitable or legitimate
10 by stakeholders in borrowing and lending countries. Additionally, public
11 creditors are unlikely to participate in debt restructuring initiatives
12 unless there is fair burden sharing among all public and private credi-
13 tors, which is essential to the legitimacy and effectiveness of debt
14 relief initiatives. The United Kingdom has successfully implemented
15 legislation to promote such burden-sharing in support of international
16 debt relief initiatives since 2010. Therefore, the legislature finds and
17 declares that it shall be the policy of the state of New York to support
18 international debt relief initiatives for developing countries in, or at
19 high risk of, debt distress, to ensure that the cost of such debt relief
20 is allocated in a fair and equitable manner, and that such costs do not
21 fall disproportionately on the residents and taxpayers of the state of
22 New York, and for other purposes.

23 § 2. The debtor and creditor law is amended by adding a new article
24 10-B to read as follows:

ARTICLE 10-B

RECOVERABILITY OF SOVEREIGN DEBT

Section 287-a. Definitions.

287-b. Recoverability of eligible claims.

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

LBD15492-01-2

1 § 287-a. Definitions. As used in this article, the following terms
2 shall have the following meanings:

3 1. "International initiative" means any mechanism, framework or initi-
4 ative in which the United States government and other sovereign states
5 have engaged with international financial institutions and official and
6 commercial creditors to advance the implementation and improvement of
7 prompt and effective debt relief among eligible states, including but
8 not limited to the Heavily Indebted Poor Countries Initiative of the
9 International Monetary Fund and the World Bank, the Debt Service Suspen-
10 sion Initiative of the Group of 20, the Common Framework for Debt Treat-
11 ments beyond the DSSI, also known as the "Common Framework", and any
12 successor or similar international mechanism, framework or initiatives.

13 2. "Eligible claim" shall mean a payment claim for borrowed money, a
14 guarantee or similar obligation with respect to borrowed money, any
15 debt-equivalent claim, and any domestic or foreign judgment with respect
16 to such a claim against an eligible state participating in one or more
17 of the international initiatives.

18 3. "Eligible state" shall mean a sovereign state eligible to partic-
19 ipate in one or more of the international initiatives.

20 4. "Burden-sharing standards" shall mean standards set by the relevant
21 international initiative or international initiatives for equitable
22 burden-sharing among all creditors with material claims on each partic-
23 ipating debtor without regard for their official, private, or hybrid
24 status.

25 § 287-b. Recoverability of eligible claims. Any eligible claim
26 incurred prior to the date of an eligible state's application to partic-
27 ipate in one or more international initiatives shall only be recovera-
28 ble:

29 1. to the extent that it comports with burden-sharing standards;

30 2. provided it meets robust disclosure standards, including inter-cre-
31 ditor data sharing and a broad presumption in favor of public disclosure
32 of material terms and conditions of such claims; and

33 3. up to the proportion of the eligible claim that would have been
34 recoverable by the United States federal government under the applicable
35 international initiative if the United States federal government had
36 been the creditor holding the eligible claim.

37 § 3. This act shall take effect immediately.