STATE OF NEW YORK

2970

2023-2024 Regular Sessions

IN ASSEMBLY

February 1, 2023

Introduced by M. of A. FAHY, KELLES -- 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:

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

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

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

LBD04458-01-3

ARTICLE 10-B
RECOVERABILITY OF SOVEREIGN DEBT

Section 287-a. Definitions.
287-b. Recoverability of eligible claims.

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

1. "International initiative" means any mechanism, framework or initiative in which the United States government and other sovereign states have engaged with international financial institutions and official and commercial creditors to advance the implementation and improvement of prompt and effective debt relief among eligible states, including but not limited to the Heavily Indebted Poor Countries Initiative of the International Monetary Fund and the World Bank, the Debt Service Suspension Initiative of the Group of 20, the Common Framework for Debt Treatments beyond the DSSI, also known as the "Common Framework", and any successor or similar international mechanism, framework or initiatives.

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

3. "Eligible state" shall mean a sovereign state eligible to participate in one or more of the international initiatives.

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

§ 287-b. Recoverability of eligible claims. Any eligible claim incurred prior to the date of an eligible state's application to participate in one or more international initiatives shall only be recoverable:

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

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

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

§ 3. This act shall take effect immediately.