STATE OF NEW YORK

5290

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. GONZALEZ-ROJAS, DAVILA -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, 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. 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, 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 that qualifies as a "debtor" within the meaning of Title 11 of the United States Code (the United States Bankruptcy Code).*

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

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

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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: (a) the assignee's (or its affiliates') history of acquiring claims at significant discounts from their face values and bringing legal actions to enforce those claims, (b) the assignee (or any predecessor in title to the claim) having refused to participate in a consensual settlement of the claim if holders of not less than two-thirds (by outstanding amount) of similar claims against the obligor had agreed to accept the terms of that settlement, and (c) such other facts or circumstances as a court may find relevant in assessing the assignee's intent and purpose in taking the assignment.

§ 3. The judiciary law is amended by adding a new section 489-a to read as follows:

§ 489-a. Sovereign debt modifications. 1. Every instrument governed by the law of the state of New York calling for the payment of a monetary obligation by a foreign state (as defined in 28 U.S.C. § 1603(a)) imposes a duty on the holder to participate in good faith in a qualified restructuring affecting such instrument.

2. For purposes of this section, a "qualified restructuring" means a modification of the terms of some or all of the unsecured debt instruments issued by a foreign state whose debt has been assessed as unsustainable by the International Monetary Fund within the prior twelve months provided that the modification is accepted by the holders of not less than two-thirds in amount and more than one-half in number of the debt instruments affected by the modification (excluding, for purposes of voting, any instruments that are owned or controlled, directly or indirectly, by the foreign state or any of its agencies or instrumentalities).

§ 4. This act shall take effect immediately.