

STATE OF NEW YORK

5623

2023-2024 Regular Sessions

IN SENATE

March 9, 2023

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. Subdivision 2 of section 489 of the judiciary law, as added
2 by chapter 394 of the laws of 2004, is amended to read as follows:
3 2. Except as set forth in subdivision three of this section, the
4 provisions of subdivision one of this section shall not apply to any
5 assignment, purchase or transfer hereafter made of one or more bonds,
6 promissory notes, bills of exchange, book debts, or other things in
7 action, or any claims or demands, if such assignment, purchase or trans-
8 fer included bonds, promissory notes, bills of exchange and/or book
9 debts, issued by or enforceable against the same eligible obligor
10 (whether or not also issued by or enforceable against any other eligible
11 obligors), having an aggregate purchase price of at least five hundred
12 thousand dollars, in which event the exemption provided by this subdivi-
13 sion shall apply as well to all other items, including other things in
14 action, claims and demands, included in such assignment, purchase or
15 transfer (but only if such other items are issued by or enforceable
16 against the same eligible obligor, or relate to or arise in connection
17 with such bonds, promissory notes, bills of exchange and/or book debts
18 or the issuance thereof). For the purposes of this subdivision, the
19 term "eligible obligor" means an obligor that qualifies as a "debtor"
20 within the meaning of Title 11 of the United States Code (the United
21 States Bankruptcy Code).
22 § 2. Section 489 of the judiciary law is amended by adding a new
23 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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1 4. For purposes of subdivision one of this section, an assignee's
2 intent and purpose in taking an assignment of a claim against an obligor
3 that is not an eligible obligor may be inferred from: (a) the assignee's
4 (or its affiliates') history of acquiring claims at significant
5 discounts from their face values and bringing legal actions to enforce
6 those claims, (b) the assignee (or any predecessor in title to the
7 claim) having refused to participate in a consensual settlement of the
8 claim if holders of not less than two-thirds (by outstanding amount) of
9 similar claims against the obligor had agreed to accept the terms of
10 that settlement, and (c) such other facts or circumstances as a court
11 may find relevant in assessing the assignee's intent and purpose in
12 taking the assignment.

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

15 § 489-a. Sovereign debt modifications. 1. Every instrument governed by
16 the law of the state of New York calling for the payment of a monetary
17 obligation by a foreign state (as defined in 28 U.S.C. § 1603(a))
18 imposes a duty on the holder to participate in good faith in a qualified
19 restructuring affecting such instrument.

20 2. For purposes of this section, a "qualified restructuring" means a
21 modification of the terms of some or all of the unsecured debt instru-
22 ments issued by a foreign state whose debt has been assessed as unus-
23 tainable by the International Monetary Fund within the prior twelve
24 months provided that the modification is accepted by the holders of not
25 less than two-thirds in amount and more than one-half in number of the
26 debt instruments affected by the modification (excluding, for purposes
27 of voting, any instruments that are owned or controlled, directly or
28 indirectly, by the foreign state or any of its agencies or instrumental-
29 ities).

30 § 4. This act shall take effect immediately.