

STATE OF NEW YORK

643--B

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. GONZALEZ-ROJAS, DAVILA, WEPRIN, GALLAGHER, SHRESTHA, REYES, SEPTIMO, ROSENTHAL, SIMONE, SHIMSKY, LUCAS, RAGA, DE LOS SANTOS, SIMON, MEEKS, BURDICK, MAGNARELLI, KELLES, HYNDMAN, STECK, ROZIC, LEE, MITAYNES, ROMERO, VALDEZ, LEVENBERG, ALVAREZ, JACKSON, STIRPE, TAPIA, CRUZ, FORREST, HEVESI, LUNSFORD, DINOWITZ, RIVERA, MORENO, SEAWRIGHT, BORES, SAYEGH, R. CARROLL, McMAHON, CLARK -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- 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:

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

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

LBD02058-07-6

1 § 2. Subdivision 2 of section 489 of the judiciary law, as added by
2 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 other than (i) the government
20 of any foreign country or of any political subdivision of a foreign
21 country, or (ii) an issuer of a bond, loan, or debt instrument guaran-
22 teed by the government of any foreign country or of any political subdivi-
23 vision of a foreign country.

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

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

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

42 § 5004. Rate of interest. (a) Interest shall be at the rate of nine
43 per centum per annum, except where otherwise provided by statute;
44 provided the annual rate of interest to be paid in an action arising out
45 of a consumer debt where a natural person is a defendant shall be two
46 per centum per annum (i) on a judgment or accrued claim for judgments
47 entered on or after the effective date of [~~the~~] chapter eight hundred
48 thirty-one of the laws of two thousand twenty-one [~~which amended this~~
49 ~~section~~], and (ii) for interest upon a judgment pursuant to section five
50 thousand three of this article from the date of the entry of judgment on
51 any part of a judgment entered before the effective date of [~~the~~] chap-
52 ter eight hundred thirty-one of the laws of two thousand twenty-one
53 [~~which amended this section~~] that is unpaid as of such effective date.

54 (b) For actions or proceedings commenced after January first, two
55 thousand twenty-six, excluding actions or proceedings with respect to
56 payment defaults that occurred before January first, two thousand twen-

1 ty-six, the annual rate of interest to be paid in an action arising out
2 of a claim against (i) a government of any foreign country or of any
3 political subdivision of a foreign country, or (ii) an issuer of a bond,
4 loan, or debt instrument guaranteed by the government of any foreign
5 country or of any political subdivision of a foreign country as a
6 defendant shall be equal to the weekly average one-year constant maturi-
7 ty treasury yield, as published by the Board of Governors of the Federal
8 Reserve System, for the calendar week proceeding the date of entry of
9 the judgment awarding damages (28 U.S.C. §1961(a)). For the purpose of
10 this subdivision, a "claim against a foreign state" means a payment
11 claim against a foreign state for monies borrowed or for the foreign
12 state's guarantee of, or other contingent obligation on, monies
13 borrowed; the term "monies borrowed" shall include the following, wheth-
14 er or not it represents the borrowing of money: monies owing
15 under bonds; debentures; notes, or similar instruments of original matu-
16 rity of at least one year; monies owing for the deferred purchase
17 price of property or services, other than trade accounts payable arising
18 in the ordinary course of government operations; monies owing on
19 capitalized lease obligations; monies owing on or with respect to
20 letters of credit, bankers' acceptances, or other extensions of credit
21 of original maturity of at least one year.

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

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

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

50 § 5. This act shall take effect immediately.