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Supreme Court delays Chrysler sale, at least for now

By KEVIN G. HALL - McClatchy Newspapers

The Supreme Court issued a temporary freeze Monday on the Obama administration's planned sale of bankrupt Chrysler LLC, a move that also could threaten General Motors' efforts to seek protection from its creditors.

The high court agreed to a request for a delay from Indiana state pensioners and some public interest groups, who alleged the speedy bankruptcy process and administration rescue of Chrysler trampled on long-established rights of creditors and misused taxpayer bailout money.

Justice Ruth Bader Ginsburg issued a brief ruling as a 4 p.m. EDT deadline approached for the deal to go through. The one-paragraph statement said only the lower-court rulings "are stayed pending further order of the undersigned or of the court."

She gave no indication of how long the case would be frozen or whether all nine justices would hear it. That means the ruling could be monumental, or the court simply wants a little more time to review the case.

The Obama administration issued this statement, insisting it be attributed only to "an administration official":

"We understand this to be an administrative extension designed to allow sufficient time for the court to make a determination on the merits of the request for a stay."

Lori McTavish, a Chrysler spokeswoman in Auburn Hills, Mich., said, "Pending further information from the court, we have no comment at this time."

The Supreme Court is expected soon to direct all parties to file follow-up briefs on one or more of the issues before it.

"I think they're all important issues. They go to both the function of our government, the role our government plays in private industry to how the financial markets are going to work in the United States," Thomas E. Lauria, a lawyer with White & Case LLP in Miami who argued on behalf of the Indiana pensioners, said in an interview. "Do contracts and financial law still mean anything or are we moving in a different direction?"

Italian carmaker Fiat was to enter into an alliance with Chrysler, taking a 35 percent stake that could be converted later to majority ownership. The deal sailed through the lower courts and seemed a certainty late last week.

Under the terms of the deal, Fiat can walk away if regulators and courts don't approve the transaction by June 15.

U.S. Solicitor General Elena Kagan, in a brief to the high court, argued the lower courts correctly held that all Chrysler stakeholders would get more from its sale than from its liquidation. She warned of potential "grave consequences" if the deal falls through.

Kagan also warned the U.S. and Canadian economies could be hit hard if the deal fails.

"More than 38,000 Chrysler employees would lose their jobs: 23 manufacturing facilities and 20 parts depots would be shuttered; more than 3,000 Chrysler dealers would suffer significant and possibly fatal harm to their businesses; and billions of dollars in health and pension benefits for current and former Chrysler workers would be wiped out," she wrote.

Blockage of Chrysler's sale also could affect General Motors Corp, which is following a similar quick-sale strategy in its bankruptcy proceeding in New York. GM filed for Chapter 11 protection from its creditors June 1, and the administration hoped it could emerge as a new debt-free company within 90 days.

"The procedures being used in both bankruptcies are very similar," said S. David Cohen, a law professor and bankruptcy expert at Pace Law School in White Plains, N.Y. Richard Mourdock, Indiana's state treasurer, voiced happiness.

"I'm delighted that it appears we will be getting our day in court," he said on CNBC television minutes after learning of the delay.

Mourdock challenged the Chrysler bankruptcy sale on grounds his state pensioners, who collectively hold less than 1 percent of Chrysler's debt, got a raw deal. He argued the Obama administration tossed "out the window" more than 150 years of bankruptcy law precedent in its rush to craft a deal that preserves jobs amid a deep recession.

The Indiana treasurer, whose state is one of the hardest hit by closures of auto and auto parts manufacturers, also argued the administration's use of bank bailout money to keep Chrysler afloat was illegal.

The court's action stunned some legal experts.

"I'm shocked," said Jerry Reisman, a bankruptcy expert and partner in the law firm Reisman, Peirez and Reisman. He said he thought the government had made a compelling case that avoiding liquidation was in the best interests of all parties. The administration and lower

courts held that in liquidation the Chrysler assets would be worth at best \$800 million, while opponents of the deal suggest they're worth \$20 billion or more.

Public advocacy groups filed a separate brief to the high court, arguing the administration's bailout plan for Chrysler would have halted an ongoing wrongful-death lawsuit against the carmaker that involves asbestos. The solicitor general made no reference to this filing.

Some Republicans were quick to seek benefit from the court action.

"This is an encouraging sign for those of us who believe that the president cannot simply abrogate contracts and implement his will at the expense of the law," said Rep. Tom Price, R-Ga. "President Obama has shown an overzealous willingness to meddle in the affairs of private businesses, and it may have finally caught up to him."