Ontario Government Releases Legislation Amending Pension Benefits Act

The Ontario government has introduced Bill 151, the Strengthening and Improving Government Act, 2013, which passed first reading on December 11, 2013. Bill 151 is not yet law, but if it comes into force, it will amend several statutes including the Pension Benefits Act (PBA). The amendments to the PBA include a response to the decision of the Ontario Court of Appeal in *Carrigan v. Carrigan*, which held that a PBA “common law” spouse was not entitled to a pre-retirement death benefit under section 48 of the PBA if the deceased pension plan member had, on his or her date of death, a legally married spouse from whom he or she was living separate and apart.

If Bill 151 comes into force, as currently drafted, section 44 of the PBA regarding joint and survivor pensions and section 48 of the PBA regarding pre-retirement death benefits will be amended to clarify how the definition of “spouse” in subsection 1(1) of the PBA applies in those provisions for the purpose of determining eligibility for benefits. If the amendments come into force, they would effectively reverse the Court’s interpretation of section 48 of the PBA in Carrigan. Bill 151 also contains a discharge for administrators who made payments in specified circumstances before the amendments come into force (and in the case of pre-retirement death benefits, the discharge is granted to administrators who made payments before October 31, 2012).

Bill 151 also contains technical amendments to section 80.1 of the PBA in respect of the transfer of assets between pension plans when a business has previously been sold.

Before becoming law, Bill 151 must still pass second and third reading in the legislative assembly, and receive Royal Assent. Further, the amendments to the PBA contained in Bill 151 would only come into force on proclamation. The legislative assembly adjourned at the end of business on December 12 and is scheduled to return on February 18, 2014.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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