



SOUNDOFF

Some retirement savings put at risk

BY FRITS VERHOEVEN

The retirement savings of many small business people and professionals in B.C. are at risk from creditors. It's time to ensure they are treated fairly.

It would surprise most British Columbians to learn that, unlike pension plans, private retirement savings like Registered Retirement Savings Plans, Deferred Profit Sharing Plans and Registered Retirement Income Funds are subject to seizure by creditors. This means that British Columbians who do not participate in a company or government pension plan are at risk of losing their retirement savings, while those who have such pension plans don't face that risk.

The issue affects all entrepreneurs, professionals or employees of smaller businesses who do not have access to company or government pension plans, and is something that organizations such as the Canadian Bar Association, the Chartered Accountants of B.C., the B.C. Real Estate Association, and the B.C. Medical Association have asked the government to change.

Canadian governments encourage us to save for our own retirement and not to rely completely on government programs. To this end,

the Income Tax Act of Canada encourages savings for retirement by deferring tax on retirement savings, within fairly strict limits defined by that act.

Many British Columbian workers do not have access to company or government pension plans and expect to rely primarily on their own savings plans to support themselves during retirement.

But because B.C. law does not protect these retirement savings from being seized by creditors, it is quite possible for a person to spend their working life saving for retirement, and then to suffer a financial misfortune or calamity of some sort resulting in the loss of their entire retirement savings.

It is the view of the Canadian Bar Association and many others that while all of the person's ordinary assets should be available to creditors, their retirement savings ought to fall in a different category, and be protected from loss to creditors.

In 1999, the Uniform Law Conference of Canada recommended legislation that the provinces could adopt which would exclude Regis-

tered Retirement Savings from seizure by creditors. The B.C. Law Institute has also recommended legislation to protect retirement savings from seizure.

So far, Saskatchewan is the only province which has enacted the model statute recommended by the ULCC.

The law could be changed without opening the door to abuse. Retirement savings are already subject to fairly strict controls under the Income Tax Act, for example by limiting the amount that can be contributed in any one year. The Canadian Bar Association's proposal to government contains other provisions designed to avoid potential abuse, such as by exempting from protection recent RRSP overcontributions, or claims for family maintenance.

British Columbia needs to continue to encourage employees who work for small and medium-sized businesses, entrepreneurs and professionals to save for their own retirement. Changing the law to protect Registered Savings Plans from seizure by creditors would be a good move in that direction.

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