

**Victoria British Columbia 2000**

**Civil Law Section New Projects**

**Proposed Pension Standards Act**

**Submission by CAPSA**

**[This document should be read in conjunction with the other materials on this proposed topic circulated earlier]**

**Submission of the CANADIAN ASSOCIATION OF PENSION SUPERVISORY AUTHORITIES (CAPSA)**

**Introduction**

The CAPSA Model Law Subcommittee is asking the Uniform Law Conference of Canada (ULCC) to consider adding a proposed Model Pension Standards Act to its agenda for drafting uniform legislation. The following is some background information on CAPSA, and the proposed model law.

**Canadian Association of Pension Supervisory Authorities**

CAPSA is an association consisting of all the regulators of private pension plans in Canada. Its members include the superintendents of pensions, or equivalent officers, from British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Newfoundland, Nova Scotia and the government of Canada. CAPSA also has associate members representing the Canadian Customs and Revenue Agency, the federal Department of Finance, and Statistics Canada, who participate in CAPSA meetings and deliberations on pension issues.

CAPSA was formed in the late 1960's to harmonize to the extent possible, the legislation, regulations and policy applied to private pension plans in Canada. Pension standards legislation first appeared in 1965, and most jurisdictions passed some form of pension legislation in the 1960's and 1970's. At the time, an attempt was made to make the various pension standards Acts uniform, or at least similar. However, as the legislation was passed by each successive jurisdiction, changes and innovations emerged, so that while the principles behind all the legislation were similar, the

specific rules in any particular jurisdiction became unique. This inconsistency from jurisdiction to jurisdiction has proved to be very costly, especially for pension plans operating in more than one jurisdiction. CAPSA was formed to try to minimize these inconsistencies as much as possible, through administrative policy and sharing of information.

CAPSA is an incorporated society with a secretariat and staff in Toronto. CAPSA meets four times a year, twice in person and twice by conference call. Until recently, CAPSA has focused on how to make the existing system of legislation and regulations more consistent across the country, and how to collaborate and cooperate so that the inconsistencies in the legislation were minimized. This effort has not been particularly effective in reducing the regulatory burden on multi-jurisdictional plans. Since private pension plans are a significant part of the retirement income system in Canada, and since they are entirely voluntary, it is important that barriers such as regulatory costs be minimized.

### **The Proposed Model Pension Standards Act**

Two years ago, CAPSA embarked on a new strategic plan which included the objective of creating a Model Pension Standards Act. CAPSA felt that until we had a model law in place, built on a national consensus on regulatory principles, it would be impossible to make progress toward the harmonization of pension legislation across the country. The hope of the pension industry is that one day, a uniform law will be passed by all jurisdictions. One industry group, the Association of Canadian Pension Managers (ACPM), actually drafted their own Uniform Pension Benefits Standards Act, based loosely on the federal pension legislation.

In order to make progress toward a nationally accepted model law, there has to be a broad consensus among governments and stakeholders. CAPSA is taking the first step in building that consensus by negotiating and articulating a set of principles agreeable to all CAPSA members, upon which a draft model law can be based. That work is ongoing, and by the September 23, 2000 meeting of CAPSA, the first draft of those principles will be completed. CAPSA is having a special meeting of the whole in November, 2000, to finalize the model law principles.

The model law principles are intended to be used as drafting instructions for the actual model law. Once the principles are in place, the principles document, plus the wording in the existing pension legislation and the ACPM draft uniform law, should provide ample material for the development of a model law.

At the last CAPSA Model Law Subcommittee meeting, it was decided to approach the ULCC to see if we could reserve a place on the ULCC agenda, in anticipation of the completion of our work on model law principles.

The subcommittee is pleased with the progress we have made toward completion of model law principles. However, there is still significant work to be done. CAPSA as a whole must debate and adopt the principles, and must also direct the subcommittee regarding the method of drafting the model law. The members of CAPSA will also have to obtain the support of their governments to proceed with the formal drafting of a model law.

The subcommittee is approaching the ULCC at this time to explore the possibility of working with the ULCC on this model law. The subcommittee will then report back to CAPSA on this approach to drafting the model law. In particular, the subcommittee has the following questions:

1. Would the ULCC be interested in pursuing this project?
2. What further information would the ULCC need at this time to secure a place on the ULCC agenda for the model pension standards legislation?
3. If the ULCC accepts the project, how soon after the model law principles are finalized could the ULCC begin work on the project?

The CAPSA Subcommittee on Model Law very much appreciates the opportunity to present this proposal to the ULCC for consideration.

**Submitted by:**

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