



## AMENDMENTS TO THE *CIVIL ENFORCEMENT ACT*: EXEMPTION PROTECTION FOR RRSP'S, RRIF'S AND DPSP'S

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The availability of registered retirement plans in enforcement proceedings is of interest to institutional lenders and debtors alike. On October 1, 2009, Alberta civil enforcement legislation was amended through the proclamation of the *Civil Enforcement Amendment Act, 2009* (the "CEAA").

The CEAA amends the *Civil Enforcement Act* (the "CEA") to exempt "registered plans" from any enforcement process (ie. garnishment, execution, seizure or attachment) taken by a creditor. A "registered plan" is a "deferred profit sharing plan" (a "DPSP"), a "registered retirement income fund" (a "RRIF") or a "registered retirement savings plan" (a "RRSP") as these terms are defined in the *Income Tax Act* (Canada).

The exemption protection for registered plans does not apply to a secured creditor enforcing its security.<sup>1</sup> Otherwise, registered plans are "off limits" for creditors wishing to collect on their delinquent accounts. Lenders should note that the exemption protection provided under the CEA applies in the event of the debtor's bankruptcy. The *Bankruptcy & Insolvency Act* (Canada) "imports", into bankruptcy proceedings, all provincial exemptions available to debtors, including the exemption protection introduced under the CEAA.

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<sup>1</sup> In other jurisdictions, like Saskatchewan and Manitoba, lenders are unable to take registered plans as security for indebtedness, and are unable to seize or garnish property held in registered plans. In those provinces, registered plans are an impenetrable "safe haven" for debtors.