

# Submission on Enhancing Retirement Security

From

BigBlue Pensioners Association

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## Executive Overview

The need for legislation to protect vulnerable and elderly pensioners is well-established.

**Pensioners are at risk because governments are loaning increasing amounts of their pension money to their former employers - without their permission and without securing those loans.**

Governments originally protected pension security by legislating full solvency funding of pensions earned over careers of dedicated service to employers – but have continually weakened legislated protections since.

Nortel and Sears are two recent examples of the failure of existing legislation at both the provincial and federal levels to protect pensions in corporate bankruptcies.

Provincial legislation has evolved at the expense of pensioners. The two largest jurisdictions - Ontario and Quebec – have repeatedly given temporary and permanent solvency funding relief to plan sponsors **with little or no offsetting protection for pensions.**

The future is predictable: the next bankruptcy of a plan registered in one of those provinces is likely to result in greater solvency funding deficits than either Nortel or Sears. For seniors dependent upon pensions for their very well-being, that means greater reductions in income.

Federal bankruptcy legislation deems pensioners to be unsecured creditors. That is unfair – pensioners have not willingly extended credit to their employers. In an

employer bankruptcy, the federal government favours powerful creditors while putting pensioners at great disadvantage.

**In brief: governments created the problem - governments must fix it.**

But it has to be fixed properly.

Some **Federal government actions** would be insufficient and **UNSATISFACTORY**:

1. Tinkering with the CCAA process. While that process is indeed prejudicial to pensioners, changing it does nothing to address one of the root problems – the unsecured creditor designation.
2. Doing nothing. Retaining the status quo would be a complete abdication of responsibility by the federal government.

By responding in either manner above, the federal government would simply ensure that future corporate bankruptcies will continue to leave a trail of victimized pensioners.

**Federal government actions** that would be **SATISFACTORY**:

The BPA proposes three practical approaches for the federal government:

1. Secure pensions; and
2. Insure pensions; or
3. Guarantee pensions.

**RECOMMENDATIONS:**

**We advocate implementation of the following by the federal government:**

1. **Super-priority amendments to the Business Insolvency Act to cover the pensions our members have earned; and**
2. **A national pension insurance plan (employer-funded) to provide 100% pension coverage for federally-regulated pension plans – with an opt-in for provinces without full pension insurance; or**
3. **A Pensions in Bankruptcy Compensation program – administered by the federal government and funded annually by the federal and provincial**

**governments as required by pension shortfalls in bankruptcy occurring in their respective regulatory jurisdictions.**

The first two solutions above would provide pension protection - **at essentially no cost to the federal government.**

The third is effectively a "loan" guarantee. It entails moderate costs – mostly to provincial governments – but it requires the federal government to develop the concept and seek provincial government concurrence – beginning with Ontario and Quebec.

**Our pensioners want to know: what will the federal government do NOW?**

**Who we are:** The BigBlue Pensioners Association (BPA) represents

- 7,818 members (+spouses) of the IBM Canada Defined Benefit Pension Plan;
- The Plan has Solvency liabilities exceeding \$2.8 billion;
- BPA estimates the Plan's solvency funding ratio will fall to/below 85% within about 6 years under Ontario's reduced funding requirements;
- While the DB plan is registered in Ontario, 34% of our members who earned pensions elsewhere are NOT covered by Ontario's PBGF.

Once it drops to/below 85% solvency funded, the Plan will be underfunded by more than \$400 million – a "loan" to IBM Canada of over \$50,000/pensioner on average.

That's money our members EARNED as deferred wages – but might not receive in the event of bankruptcy of IBM Canada under current federal law.

### **Appendix - Summary of Evidence:**

We welcome your focus on evidence-based submissions. The federal government's recognition of the unfairness to pensioners documented by the historical evidence should guide the government's actions.

The following summary of evidence leads to the recommendations above to correct unfairness to pensioners.

Evidence 1: To attract new employees post WW II, companies rapidly increased use of deferred wage inducements in the form of Defined Benefit (DB) Pension Plans. As part of their employment contract, employees accepted lower wages and in return companies agreed to deliver future payments to employees in retirement.

Evidence 2: Governments of the day, responding to employees' need for security of those deferred wages, imposed 100% solvency funding rules for pension plans – i.e. essentially company-specific pension insurance – full coverage in the event of bankruptcy.

Evidence 3: From time to time, some companies claimed hardship and sought relief from payments of deferred wages into those pension plans.

Evidence 4: Governments responded with forms of temporary and permanent solvency funding relief **WITHOUT** offsetting measures to fully secure pensions. **This is a government-created problem.**

Evidence 5: Some countries responded by offering pension insurance – a proven concept. In 1980, Ontario – alone in Canada - implemented employer-funded pension insurance via a Pension Benefits Guarantee Fund (PBGF). But the PBGF is inadequate - with only partial coverage for pensions earned in Ontario and NO coverage otherwise.

Evidence 6: Government interference via solvency funding relief has proved disastrous for many pensioners. Subsequent bankruptcies resulted in funding deficiencies and pension reductions – particularly outside Ontario.

Evidence 7: Pensioners – often elderly and living on reduced, fixed incomes – discovered that federal law does not protect their pensions in bankruptcy. Instead, the federal government treats pensioners as unsecured creditors – forcing them into costly litigation with credit-granting organizations. **In this way, the federal government actually exacerbates the problem.**

Evidence 8: There is an ever-growing list of victims of federal and provincial law. The most visible and recent are the pensioners of Nortel and Sears – who now face the remainder of their lives with reduced pension income.

The evidence is clear: The federal and provincial governments have worsened pensioners' circumstances by failing to provide reasonable and proper measures to protect them from relaxed funding requirements enacted by governments themselves.

### **In conclusion**

**Governments are loaning our money to our former employer without our permission and without securing that loan. If our former employer goes bankrupt, governments must accept responsibility for repayment – by ensuring 100% pensions.**

**Governments must resolve to fix a problem of their own creation – at their own expense or otherwise via the no-cost means recommended above. The United States and European Union countries have done it. So can Canada.**

**Our members request the federal government to take action now.**

**Respectfully submitted,**

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**We consent to making our submission part of the public record.**