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## Nova Scotia: Royal Assent for Bill 109 Results in Changes to the Pension Benefits Act

### **Legislative Update | Canada | May 2019**

On April 12, 2019, Nova Scotia's Bill 109, An Act to Amend Chapter 41 of the Acts of 2011, the Pension Benefits Act, received Royal Assent and introduced amendments to the Pension Benefits Act (PBA). These amendments are in furtherance of Nova Scotia's September 2017 and January 2018 consultation papers, which address common solvency and funding volatility issues for DB pension plans.

Bill 109 allows plan administrators to create separate reserve accounts for pension plans that include a DB provision in order to hold payments made in respect of solvency deficiency or other prescribed contributions. Upon full wind-up of the pension plan, the administrator is allowed to withdraw any surplus from the reserve account subject to the PBA's requirements.

When an administrator has transferred the assets of the DB's portion of the pension plan into an annuity in a manner consistent with the PBA's requirements, the plan administrator is fully discharged of the obligation to pay pensions to former members, retired members and other persons in receipt of a pension from the plan. Those individuals for whom the annuity has been purchased are eligible for any surplus distribution should the pension plan be wound-up within three years from the date of the annuity purchase.

Administrative matters addressed by Bill 109 focus on a reaffirmation of the PBA's requirements to create a statutory deemed trust and to create priority in favour of beneficiaries of underfunded pension plans. Further, administrators are reminded that information filed, collected or submitted to the Superintendent concerning a pension or a pension plan must be kept confidential and can only be disclosed to members and other persons that are allowed to make such a request, pursuant to the PBA.

Except for the administrative provisions, Bill 109 will come into effect upon proclamation, which is expected to occur in fall 2019. Bill 109's administrative provisions went into effect upon Bill 109's receipt of Royal Assent on April 12, 2019.

Bill 109's text is available here: [https://nslegislature.ca/legc/bills/63rd\\_2nd/3rd\\_read/b109.htm](https://nslegislature.ca/legc/bills/63rd_2nd/3rd_read/b109.htm).



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Gallagher will continue to monitor this situation and provide any additional information as it becomes available. In the interim, please do not hesitate to contact your consultant if you have any questions.

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