

Unlocking Ontario Locked-in Retirement Funds

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The Ontario Ministry of Finance shifted responsibility for providing access to locked-in retirement accounts from regulators to financial firms directly in 2014. In the process, it restructured the financial hardship unlocking program in a number of ways. The Empire Life Insurance Company ("Empire Life") and Empire Life Investments Inc. participated in Government – Cross Industry Consultations which reviewed and recommended changes to the program and administrative procedures to make it easier for people to access locked-in retirement funds.

Effective January 1, 2014, Ontario Regulation 185/13 under the Pension Benefits Act came into effect. Financial institutions will be responsible for all aspects of processing applications for financial hardship unlocking including answering questions and providing information to customers about their applications. The program and rules cover Locked-in Retirement Accounts (LIRA), Life Income Funds (LIF) and Locked-in Retirement Funds (LRIF).

Changes to the rules included:

- a) Reducing the amount of evidence required to qualify for a withdrawal
- b) Replacing the asset test that determines how much can be unlocked with a maximum withdrawal amount
- c) Consolidating the former seven criteria used for financial hardship unlocking into four:
 - a. rental or secured debt (i.e. mortgage) arrears on a principal residence,
 - b. medical expenses including renovations to a principal residence for medical reasons,
 - c. payment of first and last month's rent for a principal residence and
 - d. low expected income.

The program aims to make it easier for those people and families struggling with loss of income or medical expenses to get access to their locked-in accounts.

The following Q&A is a summary to help establish procedures and answer customer enquiries. This applies only to funds locked-in and administered under the Ontario Pension Benefits Act and Regulations, as amended.



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Peter works with independent advisors and other professionals raising awareness on issues and concerns faced by affluent individuals, professionals and business owners. He supports efforts in researching and developing optimal solutions for clients aimed at improving their financial well-being and supporting their personal wishes and lifestyles. He has provided 1000s of workshops, seminars and technical support throughout the country on tax, retirement income and estate planning issues, concepts and strategies to both advisors and consumers. As an accredited Registered Financial Gerontologist, a good deal of his time is spent on building awareness and educating people of all professions who work with or specialize in the needs, expectations and issues of elders. Comprehensive lifestyle planning is an important element of these processes.

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Q1. How does the Regulation affect processes at Empire Life and Empire Life Investments Inc.?

A1. Effective January 1, 2014, Ontario locked-in account owners must submit Applications for Financial Hardship Unlocking to the financial institution where the locked-in funds are held. Empire Life and Empire Life Investments Inc. will be responsible for reviewing each Application to determine if it meets the requirements for the particular category of financial hardship on which the application is based.

If the application meets the requirements we must pay the customer within 30 days after the date it receives the completed application and any accompanying required documents.

We will also be responsible for answering questions from locked-in plan owners about the Applications and the Regulation. In addition to the questions and answers below, the Financial Services Regulatory Authority of Ontario developed a User's Guide for Financial Institutions to provide additional guidance and examples. This [Guide](#) is available on the Financial Services Regulatory Authority of Ontario website.

Q2. Who can apply for financial hardship unlocking?

A2. Only the Owner of a policy/contract or account may apply.

Q3. What plans are eligible for financial hardship unlocking?

A3. Only plans where the funds held are locked-in and administered under the Ontario Pension Benefits Act are eligible. It is not the Owner's residence that determines whether the funds are administered under Ontario legislation. Keep in mind that for employers under provincial jurisdiction, the regulations of the province (Ontario in this case) where the member worked when they ceased active membership in the pension plan governs the locked-in plan. When locked-in funds are transferred from a pension plan or between financial institutions, the transfer documentation identifies the applicable pension legislation. We must verify the information by checking our files.

Q4. How does a customer apply for financial hardship unlocking?

A4. Effective January 1, 2014, customers must apply to the financial institution where their Ontario locked-in funds are held. The Financial Services Regulatory Authority of Ontario will no longer be involved in approving these applications.

Q5. Where does the customer get the form to apply for a withdrawal of locked-in funds due to financial hardship?

A5. The forms are available only from the Financial Services Regulatory Authority of Ontario website (and include hyperlink called forms) <https://www.fsrao.ca/industry/pension-sector/pensions-forms>.

Q6. Is there more than one form to complete?

A6. No. The form to complete is based on the category of financial hardship unlocking. These forms are: (FHU refers to Financial Hardship Unlocking)

- Form FHU 1 - Application for medical expenses, including renovations to a principal residence for medical reasons <https://www.fsrao.ca/pf-095-financial-hardship-unlocking-form-fhu-1>;
- Form FHU 2 - Application for arrears of rent or secured debt (mortgage) on a principal residence <https://www.fsrao.ca/pf-096-financial-hardship-unlocking-form-fhu-2>;
- Form FHU 3 - Application for first and last months' rent for a principal residence <https://www.fsrao.ca/pf-097-financial-hardship-unlocking-form-fhu-3>; and
- Form FHU 4 - Application for low expected income <https://www.fsrao.ca/pf-098-financial-hardship-unlocking-form-fhu-4>.

Each form includes specific instructions on how to complete it, including how to calculate the maximum that can be withdrawn and any additional documentation requirements. The forms must be completed and signed no earlier than 60 days before the date they are received by us. There is a user guide on the Financial Services Regulatory Authority of Ontario website that customers should use to assist them in completing the forms.

Non financial hardship <https://www.fsrao.ca/consumers/pensions/pension-unlocking-non-hardship>

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Financial hardship <https://www.fsrao.ca/consumers/pensions/withdrawing-locked-accounts-because-financial-hardship>

Q7. Can the customer use an existing Application for Financial Hardship unlocking form printed prior to the year the application is received?

A7. No. New forms are issued each Financial Services Regulatory Authority of Ontario. Applications have to be made on the form for the year in which the application is made. Customers cannot use a previous year's form in another year. This also applies going forward. For example, if an application is received in 2021 on a 2020 form it will have to be rejected.

Q8. How often can a customer apply to withdraw funds for financial hardship purposes?

A8. A withdrawal for financial hardship is permitted once per calendar year per category of financial hardship. There is one exception to this rule. That is, if the withdrawal is for medical expenses. In this case, more than one withdrawal is permitted only if the subsequent withdrawals are for a different eligible person. Eligible persons are the owner, the owner's spouse or a dependant of the owner or owner's spouse.

Q9. Does a customer have to wait a full year before applying for financial hardship unlocking again?

A9. No. The limitation is once per calendar year per category of financial hardship. You can apply to unlock under multiple financial hardship categories in that same calendar year. Other than that, as an example, a customer could apply for financial hardship unlocking in November 2021 and again in March 2022 as these are separate calendar years. After the March 2022 withdrawal is processed they would not be eligible to apply again until at least January 2023.

There is one exception under the medical expense category. You may apply each calendar year, for each account, for each person who is suffering from an illness or physical disability if that person is:

- the owner (former pension plan member who has transferred the value of their pension entitlements out of their plan and into an Ontario LIRA or LIF),

- the owner's spouse, or
- a dependent of the owner or the owner's spouse.

Q10. Does the customer's spouse have to agree to the financial hardship unlocking?

A10. Yes. Each Financial Hardship Unlocking Application includes a section for consenting to the withdrawal to be completed and signed by the spouse, if the owner has one, and witnessed by an adult other than the owner. The spouse has the right to choose not to consent to the withdrawal. If the owner has a spouse and the spousal consent section is not completed, the application for financial hardship unlocking must be rejected.

There are 2 exceptions to this rule. They are (a) if the owner and the spouse are living separate and apart due to the breakdown of their marriage, and (2) if the funds originated from the pension fund of the Owner's spouse and the funds were transferred to the owner as a result of marriage breakdown.

Q1. What is the maximum amount that can be withdrawn?

A11. The maximum amount available for financial hardship unlocking varies based on the category. It is the lesser of:

- (a) the amount calculated, or
- (b) a defined percentage of the Years Maximum Pensionable Earnings (YMPE) in the year the application is being made for three of the categories (5% of the YMPE for an application for the first and last month's rent on a principal residence, 50% of the YMPE for medical expenses or arrears of rent or secured debt), or
- (c) the surrender value of the policy/contract or the current market value of the account.

The owner calculates their applicable maximum on the Application for Financial Hardship Unlocking.

Q12. What is the minimum amount that can be withdrawn?

A12. The minimum amount that can be withdrawn is \$500.00. If the owner requests a withdrawal of less than \$500.00 or if the maximum amount calculated is less than \$500.00, it is not eligible and the application must be refused.

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Q13. Can a customer request payment in instalments?

A13. No, the withdrawal must be paid in one lump sum.

Q14. If approved will the customer be issued a cheque for the full amount they applied for?

A14. No. Withholding tax and any applicable fees or charges must be deducted from the amount withdrawn. Withholding tax is determined based on the amount of the withdrawal and the residence of the Owner at the time of withdrawal. The withdrawal amount cannot be grossed up to cover the withholding tax or any fees and charges.

Q15. Will applying for financial hardship unlocking affect the creditor protection on the policy/contract or account?

A15. Funds held within a locked-in policy/account are protected from execution, seizure or attachment. However once the funds are withdrawn from the policy/account they are no longer protected from creditors. This includes funds withdrawn for the purpose of financial hardship. Funds remaining in the policy/account will continue to be protected.

Q16. Will applying for financial hardship unlocking affect eligibility for benefits under any government program?

A16. Amounts received under financial hardship unlocking are reportable as taxable income in the year they are withdrawn. Whether the amount will affect eligibility for government benefits will depend on the program under which they are being received. Customers should be advised to contact the government agency or department that administers their benefits to determine if receiving these funds will affect their eligibility.

Related articles:

Unlocking Locked-in Pension Accounts across Canada
<https://www.empire.ca/sites/default/files/2021-05/INV-2868-StepUp-PensionUnlockingRules-EN-web.pdf>

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