

FINANCIAL HARDSHIP UNLOCKING USER GUIDE FOR FINANCIAL INSTITUTIONS

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INTRODUCTION AND OVERVIEW

This User's Guide is intended to assist financial institutions that are required to process applications for withdrawals from locked-in accounts because of financial hardship, in accordance with the requirements of Regulation 909, R.R.O. 1990, under the Ontario *Pension Benefits Act*.

Please note that this User's Guide is a guideline only. It is intended to provide guidance to financial institutions as they process applications. Where this guideline conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), the Pension Benefits Act R.S.O. 1990, c. P.8. (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Effective January 1, 2014, it is the responsibility of financial institutions which hold and administer their clients' locked-in accounts to review each application for a withdrawal from that account because of financial hardship to determine if it meets the requirements set out in the Regulation for the particular category of financial hardship on which the application is based and, if it does, to approve the application and make the payment from the account in accordance with the Regulation. The financial institution will be responsible for answering questions and providing information to owners of locked-in accounts relating to their applications. It will no longer be the responsibility of the Financial Services Commission of Ontario (FSCO) to process these applications.

There are four categories of financial hardship: (i) medical expenses, (ii) arrears of rent or debt secured on a principal residence (such as a mortgage), (iii) payment of first and last months' rent, and (iv) low expected income. Each application must be made based on one of these categories. Applications must be made on Superintendent-approved forms, which will be issued by FSCO each year and posted on FSCO's website at the beginning of a calendar year.

Applications must be made on the form for the calendar year in question. Owners cannot use previous years' forms in another year. If an application is made to a financial institution on a 2013 form that was used for applications to the Superintendent, it must be refused.

The owner of the locked-in account must be the person who applies for financial hardship withdrawal.

RELIANCE ON INFORMATION PROVIDED BY OWNER

The owner is required to certify that all the information in the application and any accompanying documents is accurate and complete, and it is deemed to be a term of the contract governing the locked-in account that the financial institution is entitled to rely upon the information provided by the owner in the application. However, the certification made by the owner is only in respect of the information that the owner has provided in the application.

The financial institution is still responsible for ensuring that the requirements of the Regulation have been satisfied. For instance, the application is a nullity if: (i) it is signed by the owner (or his or her spouse, if applicable) more than 60 days before the financial institution receives it; or (ii) in any other case, if a required document is signed or dated more than 12 months before the financial institution receives it.

It is the responsibility of the financial institution to determine if the application meets the requirements of the Regulation. If the requirements have not been met and a payment is made, the payment may be considered a void transaction.

Further, if the financial institution has information on file or has reason to suspect that the information contained in the application is inaccurate or not true, the financial institution should make further inquiries.

If a financial institution has questions about possible liability associated with the review of applications, it should consult with its legal advisors.

QUESTIONS THAT MUST BE ADDRESSED IN PROCESSING APPLICATIONS

It is the responsibility of the financial institution to put in place appropriate procedures for the review of applications. In reviewing applications, the financial institutions should first address the following questions:

1. Is the money in the account subject to the Ontario *Pension Benefits Act* (see page 4)? If not, the application must be refused.
2. Does the application satisfy the “one application per year, per category, per account” requirement (see pages 4-5)? If not, the application must be refused.
3. Is the application complete? Has the application been signed by the owner and the spouse (if applicable)? Are all the required supporting documents included and signed, if necessary? Were the timelines for signatures respected? If the application is not complete, the owner should be advised. If these deficiencies are not resolved, the application must be refused.
4. On what date were the completed application and the required accompanying documents received by the financial institution? Financial institutions should record such date of receipt, as the 30-day time limit for payment begins on this day. (see pages 5-7)

Once the financial institution is satisfied that the application meets these general requirements, it must determine if the application satisfies the specific requirements for the applicable

category of financial hardship unlocking. This includes whether the amount applied for is within the minimum and maximum amount limits for the applicable category.

Under certain circumstances, an application must be refused. Examples are set out on page 6 but this list is not exhaustive.

The Money must be Subject to the PBA

It is important to verify that the money in the locked-in account is subject to Ontario law rather than federal legislation or the law of another province. First, the money must have been earned in Ontario. That means the employment took place in Ontario or was considered to have taken place in Ontario as per the PBA. A person is deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work. A person who is not required to report for work at an establishment of his or her employer is deemed to be employed in the province in which the employer's establishment from which the person's remuneration is paid is located.

Second, the employment must not have been in federally regulated employment such as banking or interprovincial transportation, or employment in the federal government or an organization or agency under the federal government, such as the RCMP.

When money is transferred from a pension fund to a locked-in account, or from one locked-in account to another, that transfer is usually accompanied by a Canada Revenue Agency form or equivalent documentation that identifies the jurisdiction whose pension law applies to the money. It is the responsibility of the financial institution to keep a record of the pension law that applies to the locked-in account and to administer that account in accordance with applicable law.

As an example, Juan worked in Ontario selling widgets but his pension plan was registered in Quebec. His money is now in a bank and he wants to apply for financial hardship unlocking. Because the money resulted from Ontario employment, the Ontario financial hardship unlocking rules would apply to him.

Diane worked in Ontario for her whole career at a major bank and was a member of a federally-registered pension plan. Her locked-in account is with a credit union in Ontario. Even though she worked in Ontario, her pension plan was subject to federal pension benefits standards legislation, which has different unlocking rules. Therefore, the Ontario financial hardship unlocking rules would not apply to Diane.

One application per year, per category, per account

Each application relates to one locked-in account. An owner can make one application for financial hardship withdrawal, for each category, under each account, once in a calendar year. Each application must be made on a separate form.

There is one exception. Under the category of medical expenses, an owner of a locked-in account may make one application each calendar year for each account, for each person who is suffering from an illness or physical disability if that person is the owner, the owner's spouse, or a dependant of the owner or the owner's spouse. Please see the section on medical expenses for more information.

Owners are required to certify that all the information in the application and in the accompanying documents is accurate and complete, and that the owner has not previously applied to withdraw money from this locked-in account under the same category in the same year. Despite this certification, the financial institution should rely on its own records to be satisfied that the owner has not made more than one application during the year. Please refer to pages 2-3 for additional information about relying on the information provided by the owner.

Key Dates and Timelines

(i) Year of Receipt

As only one application can be made per year per category (with the exception for medical expenses described above), it is necessary to know the year in which an application is made.

For the purpose of determining the year the application was made, the key date is **the date the completed application with all required accompanying documents is received by the financial institution**. The date the completed application with all required accompanying documents is received is the date it is submitted in person or the date it is received by mail, fax or electronically. Financial institutions must record the date of receipt.

If an application is signed by the owner and received by the financial institution in 2014 but the money is not paid out until 2015, the year in which the application was made is 2014. The individual may apply again in 2015, using the 2015 form.

(ii) 30 day time limit for payment

The financial institution must record the date the completed application with all required documents is received, review the application, determine if it meets the requirements set out in the Regulation for the particular category of financial hardship on which the application is based and, if it does, make one payment of the entire amount to which the owner is entitled from the account, all within 30 days from receipt of the completed application.

In determining the 30 day time limit, the date of receipt is excluded and the date of payment is included.

Example: a financial institution receives a complete application and all required documents on September 15 and approves it on the same day. The money must be paid within 30 days of September 15, which is October 15 – you begin counting on the next day, September 16. If the application is complete but the financial institution does not approve it until September 25, the money must still be paid by October 15 as the 30-day period began September 15, the date of receipt.

The 30 day time limit is affected if the application is incomplete.

Example: An application is received by a financial institution on May 1. The financial institution must make the payment within 30 days from May 1, which would be no later than May 31. Assume that the financial institution reviews the application on May 7 and determines that the application is incomplete – it may be missing a signature or there might not be a necessary accompanying document. At that point, the 30 day “clock” is stopped and is reset to zero. The financial institution should contact the applicant and advise him or her to provide the missing information or document. When the applicant does so, the 30 day clock begins anew.

(iii) 60 day time limits for submission

A document is a nullity if the document must be signed by the owner or by his or her spouse and it is signed more than 60 days before the financial institution receives it.

Once the application is signed, the owner has 60 days to submit it to the financial institution. If the application was signed more than 60 days before the date it was received by the financial institution, the application must be rejected and a new one filled out and submitted. The date of receipt is excluded in determining whether the application was signed more than 60 days before receipt.

An application is considered to be received on the date it is submitted in person, or received in the mail, by fax, electronically, or is received in any other means acceptable to the financial institution. The financial institution should stamp that date on the application or in some other manner and record it.

Example: the financial institution receives the application on May 1. Count backward to 60 without counting the date of receipt, which means starting on April 30, which takes you to March 2. If the application was signed (certified) on March 1 or earlier, the certification is not valid, and a new application will be required.

(iv) 12 month time limits

Certain required statements or documents cannot be signed and dated more than 12 months before the financial institution receives it. For example, a statement from a physician or dentist under Part 5 of Form 1 (Medical expenses), or a written demand for arrears of rent or secured debt under Form 2.

Minimums and Maximums

For all applications, the **minimum** amount that an individual can apply for is \$500.00. If the maximum amount an individual is entitled to withdraw is less than \$500.00, the application must be refused. For example, if a physician or dentist states that the amount the owner needs for medical expenses is only \$400.00, this is less than the minimum and the application must be refused.

The owner cannot apply for an amount greater than the maximum to which he or she is entitled under the Regulation. The maximum is different for each category. If the owner does apply for an amount greater than the maximum, the financial institution should advise the owner to amend the application. If the amount applied for is still greater than the maximum, the financial institution must reject the application. A financial institution cannot pay an amount greater than the maximum permitted under the Regulation.

When must an application be refused?

After reasonable efforts to obtain a complete and compliant application, an application must be refused when it does not meet the requirements of the applicable section of the Regulation. It is the financial institution's responsibility to review the application to ensure that it fulfils all requirements. The following list contains examples of when requirements are not met. Please note that these are only examples; it is not a comprehensive list.

1. The form has not been completed fully.
2. Any documents required by the applicable section to accompany the application have not been submitted or do not meet the requirements of the section.
3. The locked-in account is not held by the financial institution.
4. The money was not earned in Ontario regulated employment.
5. The applicant is not the owner of the account.
6. The owner has already made an application under that section during that calendar year with respect to that account (or for medical expenses has already made an application under that section during that calendar year in respect of that particular person).
7. The owner applies to withdraw an amount that is less than \$500.
8. The maximum amount permitted under the section is less than \$500.
9. The owner applies to withdraw an amount that is greater than the maximum permitted under the section.

10. There is no spousal consent to the withdrawal (and one is required in the circumstances.)
11. The spouse who signs the consent is not the one identified in Part 1 of the application.
12. The owner certification or the spousal consent is dated more than 60 days before the date the financial institution receives the form.
13. The owner does not use the Superintendent-approved form for the correct category of financial hardship.
14. The spouse's signature is not witnessed by an adult who is not the owner of the locked-in account.

When an application is refused, the financial institution must advise the owner in writing and set out the reason for the refusal.

If the owner does not agree with the refusal, or if the owner does not agree with the amount that has been approved, the financial institution should advise the owner to contact FSCO.

GENERAL REQUIREMENTS AND ISSUES

Form of Payment

The money must be paid in one lump sum. It cannot be paid monthly or in any other manner or transferred to another tax-deferred account, such as a registered retirement savings plan.

Withholding Tax and Financial Institution Fees

Financial institutions are required to withhold a certain percentage of money for federal income tax and remit that amount to the Canada Revenue Agency (CRA). The withholding tax is a prepayment for income tax and is a percentage of the amount withdrawn from the locked-in account. It is up to each financial institution to calculate the amount that must be withheld and remitted.

The maximum determined under the Regulation is the total amount that may be withdrawn. The financial institution cannot "gross up" this amount to add withholding tax and fees. Therefore, the financial institution must deduct income tax and any additional fee from the amount that is approved for payment to the owner.

Example: Moe has \$20,000.00 in his locked-in account. He is entitled to withdraw a maximum of \$13,000.00 from his account, and he applies to withdraw \$10,000.00. His application is approved for \$10,000.00. An amount of \$2,000.00 must be withheld for income tax. The bank also imposes a \$10.00 administration fee.

The bank **cannot** add the additional \$2,000.00 tax plus the \$10.00 fee to Moe's requested amount of \$10,000.00. That is, it cannot pay Moe \$10,000.00, transfer

\$2,000.00 to CRA and deduct \$10.00 for the fee. Instead, the bank **must** deduct \$2,010.00 from the \$10,000.00 to which Moe is entitled. The bank must send \$2,000.00 to CRA, pay itself \$10.00, and give Moe the remaining \$7,990.00.

As the maximum amount Moe can apply to withdraw is \$13,000.00, if he wants to receive a greater amount than \$7,990.00 in cash, he could apply in the first place to withdraw \$13,000.00. In that event, Moe would receive \$10,390.00, which is calculated as \$13,000.00 less withholding tax (\$2,600.00) and the bank fee of \$10.00. The amount of withholding tax will be calculated on the \$13,000.00, which is the total amount he withdraws. But in any event, Moe cannot apply to withdraw more than the maximum he is entitled to.

The financial institution should advise the owner in advance that the amount that is approved will be reduced for withholding tax and fees, if any.

Entitlement to Other Government Benefits

When money is withdrawn from a locked-in account, the amount withdrawn could be considered as income that could affect eligibility for benefits under a government program. If an individual has a question, he or she should be advised to contact the government agency or department that administers such program or provides these benefits.

Loss of Creditor Protection

Money in locked-in accounts is exempt from execution, seizure or attachment. Once money is withdrawn from a locked-in account and is in the hands of the owner, it loses its protection from creditors. This applies to all withdrawals including money that is withdrawn for financial hardship.

A creditor may want to seize money when it is unlocked and before the financial institution pays it to the owner. The financial institution should seek advice from its legal advisors regarding its obligations in that situation.

Privacy

The financial institution is responsible for advising each owner about the purpose for which personal information is collected, used or disclosed in accordance with any applicable privacy laws. It is up to each financial institution to comply with all applicable privacy requirements with respect to information provided as part of this application.

Keeping Track of Applications

Each financial institution must keep accurate records of the date a completed application with all required accompanying documents was received, when the review was completed and when the money was paid out, or the reasons for refusal were communicated, to the owner. Since only one application for each account under each category can be made in a year (other than the exception for medical expenses), the financial institution must be aware of whether the owner has already applied during the year with respect to that account (and for medical expenses, with respect to that person).

COMMON FEATURES OF THE FORMS

PART 1 – INFORMATION ABOUT THE OWNER OF THE LOCKED-IN ACCOUNT

Question 1, provide information about the owner of the locked-in account.

Question 2, policy or account number: Each application pertains to one locked-in account. The only number in the box should be the number of the financial institution's account from which the owner is seeking to withdraw money.

Question 3, spouse.

"Spouse" is defined in the *Pension Benefits Act* as either of two persons who,
(a) are married to each other; or
(b) are not married to each other and are living together in a conjugal relationship,
(i) continuously for a period of not less than three years; or
(ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act*.

If the owner has a spouse **on the date on which the application is signed**, the information about the spouse in question 3 must be filled in.

If spouses are living separate and apart due to a breakdown in the spousal relationship, that spouse does not need to consent to the withdrawal. However, information about that spouse should still be filled in. If the spouses are living in different residences on the date the application is signed, that does not automatically mean they are not spouses for the purpose of this consent. If one spouse is living elsewhere because of his or her work, or because he or she is looking after a relative or friend for health reasons, or for other reasons that are not related to their spousal relationship, that does not constitute being separate and apart for the purpose of this consent.

It is possible that an owner has "more than one spouse". That is, he or she may be separated from his wife or husband although they are married, and he or she is living with another person common-law who meets the definition of spouse in the *Pension Benefits Act*. In this case, the

information about the spouse in question 3 must be filled in with the information about the common-law spouse and the funds may only be withdrawn if the common-law spouse provides consent (Part 4).

With respect to the financial institution relying on the information the owner has provided in the application with respect to the owner's spousal status, the financial institution should make further inquiries if it is not satisfied with the information the owner has provided. Please refer to pages 2-3 for additional information about relying on the information provided by the owner.

PART 2

The questions in Part 2 pertain to the category under which the application is made. Please refer to each section below.

PART 3 – CERTIFICATION BY THE OWNER OF THE LOCKED-IN ACCOUNT

The owner "signs" the application when he or she signs the certification in Part 3 and dates it. The owner must sign and date the certification in Part 3 in the presence of an adult witness, who is a person 18 years or older. The witness must not be a spouse or dependant of the owner. An employee of the financial institution may be a witness. The financial institution should ask for identification in accordance with its usual practices and procedures for withdrawals. If the financial institution is still not satisfied, it may refuse the application. The application is only valid if it is signed by the owner.

With respect to the key dates and timelines for the certification, please refer to pages 5-7 of the guide.

Certifications regarding spousal status

The owner must certify certain information regarding his or her spousal status. (See above for the definition of "spouse".) **On the date the owner signs the application**, he or she must check only one of four boxes:

1. The owner has a spouse and the spouse consents to the withdrawal of money from the locked-in account.

Whether the owner has a spouse within the meaning of the PBA is a question of fact which the owner must certify. If the owner has such a spouse and the spouse does not consent, the application must be refused.

2. The owner has a spouse but the spouses are living separate and apart as a result of a breakdown in their spousal relationship.

As discussed above, the owner may be living separate and apart from one spouse but have a common law relationship that meets the definition of spouse under the PBA. In that case, the owner must check the first box. If the financial institution is not satisfied with the statement of the owner, it may ask for further information or clarification.

With respect to the financial institution relying on the information the owner has provided in the application with respect to the owner's spousal status, please refer to the information on page 3.

3. The owner has a spouse, but none of the money in the owner's locked-in account is derived, directly or indirectly, from a pension benefit provided in respect of the owner's past or current employment.

This refers to the situation where the money in the locked-in account from which the owner is seeking to withdraw did not come from the owner's pension but from the pension plan of his or her former spouse. For example, as a result of a divorce, John was required to pay a portion of his pension to Susan, and that portion was paid into Susan's LIRA. Susan subsequently marries Bob and wants to apply to withdraw money from her LIRA for financial hardship. Since the money was earned by John, Susan's current spouse Bob is not required to consent to the application. John is no longer Susan's spouse, so his consent is not required.

4. The owner does not have a spouse.

In this case, no spousal consent is required.

Other certifications

By signing/certifying the application, the owner is also certifying that:

- All the information in the application is accurate and complete.
- No previous application was made in this calendar year under this category.

Each owner is entitled to apply once per year, under each category. For medical expenses, a separate application may be made for each eligible person for the same account. For example, if an owner and his or her spouse both have medical expenses, the owner may apply once for each of them in the same year to withdraw money from his or her account.

If an owner has already made one application in a year under a specific category and is not eligible to make a second application, but does so regardless, the second application must be refused.

If an owner has more than one locked-in account in the same financial institution, he or she may make separate applications with respect to each locked-in account under each category in the same year.

Example: Zeke has a LIRA and a LIF with the same institution. If he applies under low expected income under his LIRA, he can also apply under low expected income under his LIF. If he has his accounts in separate institutions, he can also apply once for each account.

PART 4 – SPOUSAL CONSENT

If an owner has a spouse on the day the owner signs the certification, the owner may only withdraw funds if the spouse consents to the application unless:

- the owner and spouse are living separate and apart as a result of a breakdown in the spousal relationship, or
- the money originated in the pension plan of a former spouse (none of the money was related to the employment of the owner).

The financial institution must reject the application if spousal consent is required and the spouse does not consent.

There are three statements the spouse must indicate that he or she understands. If the spouse is signing the consent at the financial institution and indicates he or she does not understand any of these statements, the spouse should be advised to seek legal advice. If the financial institution is not satisfied that the spouse understands what he or she is signing, it may refuse the application.

The financial institution may request evidence of the spouse's identity and spousal status.

The spouse's consent must be given in the presence of a witness. The witness must be an adult who is at least 18 years of age. The witness cannot be the owner.

FORM FHU 1 – MEDICAL EXPENSES, INCLUDING RENOVATIONS TO A PRINCIPAL RESIDENCE FOR MEDICAL REASONS

Part 2: Medical Expenses (including Renovation Expenses)

Question 1: Who has the illness or physical disability?

Under the category of medical expenses, one application may be made each year for each person who is suffering from an illness or physical disability as long as the affected person is the

owner of the account, the owner's spouse, or a dependant of the owner or a dependant of the owner's spouse. A physician or dentist must provide verification of the medical condition. A separate application must be made for each person, and the statement of the physician or dentist must relate to the person named in that application. The spouse of the owner who is living at a different residence than the owner may still qualify under this category.

For the purpose of this application, a "dependant" is any person who was dependent on the owner of the locked-in account or the owner's spouse for support at some time during the calendar year in which the owner signs the application, or during the previous calendar year. The dependant is not required to reside at the same location as the owner or the owner's spouse. For example, the dependant may be living in a residence or in a short or long-term care home.

The medical expenses may include:

- expenses for goods and services of a medical or dental nature;
- expenses for any renovations that have been made or will be made to the owner's or dependant's principal residence made necessary by the illness or physical disability of the owner, his or her spouse or their dependant; and
- any additional expenses actually incurred in the construction of the owner's or dependant's principal residence made necessary by the illness or physical disability of the owner, his or her spouse or their dependant.

There is a distinction between renovations to an existing residence and additional construction expenses for a new residence. Medical expenses include expenses already incurred or to be incurred for renovations or alterations to the owner's or a dependant's existing principal residence made necessary by an illness or physical disability of the owner, his or her spouse or a dependant. Examples include a ramp for wheelchair access, installation of bars in a bath tub or shower stall, and a stairlift. Medical expenses include medical expenses for a person suffering from a mental illness.

However, with respect to the construction of a principal residence, medical expenses can only include those expenses that were already incurred. Future expenses for a residence that has not yet been built cannot be included.

Medical expenses may include expenses that have been incurred in the past as long as the physician or dentist certifies that the goods or services are or were necessary for the person's treatment, or that the renovations are or were necessary as a result of the person's illness or physical disability. The illness or physical disability may have occurred in the past.

A person's principal residence is his or her primary place of residence. It is the housing unit he or she ordinarily inhabits during the calendar year in which the owner of the locked-in account signs the application. The housing unit can be a house, a condominium unit, an apartment or other unit in a multi-residential property, a non-seasonal mobile home, a trailer or a houseboat.

A person can only have one principal residence at any one time for the purpose of this application.

The principal residence to which renovations are required or to which the renovations were made may be the principal residence of the owner or the dependant. The renovations cannot be or have been to the spouse's principal residence if that residence is different from that of the owner. However, if the owner and the spouse are living at different residences, the spouse may still qualify under this category for renovations to the spouse's residence if the spouse qualifies as a dependant of the owner. In that case, the owner should identify the person with the illness or physical disability as his or her dependant, as well as his or her spouse.

A person can make applications under different categories but must use different forms. Likewise, a person can make two applications under the medical expenses category for two different persons but must use different forms. For example, if Joe applies under medical expenses for himself and under medical expenses for his son, two different forms and two different sets of supporting documents must be used.

Question 2: Previous applications

One application may be made each year for each person who is suffering from an illness or physical disability as long as the affected person is the owner of the account, the owner's spouse, or a dependant of the owner or the owner's spouse.

Question 3: Maximum amount that may be withdrawn

The maximum amount an owner can withdraw is the **smaller** of:

1. 50% of the YMPE for the year – this amount will be pre-filled in the form in box 3a - and
2. the sum of:
 - the amount of medical expenses that have been incurred, and
 - an estimate of the total medical expenses expected for the 12 months following the date the application is signed.

This sum is to be written in box 3b.

The amount that is the smaller of boxes 3a and 3b must be set out in box 3c. This is the maximum amount that the owner may apply to withdraw.

Copies of receipts or estimates for the total amount of expenses claimed must be attached. A receipt for past expenses should be dated, show the amount paid and to whom the amount was paid and the nature of the expenses. For future expenses to an existing residence, the estimate should be dated, show the proposed amount to be paid and what work is to be done.

Question 4: How much is the individual applying for?

The amount the owner is applying for must be set out in box 4. It cannot be greater than the amount in the locked-in account that is the subject of this application, or greater than the maximum as set out in box 3c. It cannot be less than \$500.00.

Example: the maximum Wilma is allowed to withdraw is \$8,000.00 but she only has \$6,000.00 in her account. Wilma should not ask for more than \$6,000.00. If she does, the financial institution should advise her that she has only \$6,000.00 in her account and suggest that she amend the application. Wilma can then decide whether to amend or withdraw the application.

Question 5: Principal residence that requires renovations

If the medical expenses involve renovations to a principal residence, it must be the principal residence of the owner or the dependant. The renovations cannot be for the owner's spouse's residence if the spouse resides at a different address unless the spouse qualifies as a dependant of the owner.

Additional documents required: See Part 5

Part 5: Statement of Physician or Dentist

The owner must provide a statement signed by a physician or dentist that supports the application under this section. The physician must be a medical doctor licensed to practice medicine in a jurisdiction in Canada. This does not include chiropractors, physiotherapists, psychologists, acupuncturists, naturopaths, cosmeticians, and others. The dentist must be a dentist licensed to practice dentistry in a jurisdiction in Canada. The physician or dentist can either complete Part 5 or provide a separate statement. If a separate statement is provided, it must state that the physician or dentist is licensed to practise in Canada, their registration or license number and all of the other information required by Part 5.

The physician or dentist must identify the person who is the subject of the application and has or had the illness or physical disability, and confirm that certain medical or dental goods or services are or were necessary for that person's treatment, and/or confirm that certain renovations are or were necessary to the principal residence as a result of the person's illness or physical disability, and/or confirm that additional expenses incurred in the construction of a principal residence were made necessary by the illness or physical disability. Part 5 of the form or the separate statement must be signed and dated by the physician or dentist, and his or her registration or license number must be filled in.

The physician or dentist's statement must be complete and must not be signed or dated more than 12 months before the financial institution receives it.

FORM FHU 2 – ARREARS OF RENT OR SECURED DEBT (MORTGAGE) ON A PRINCIPAL RESIDENCE

Part 2: Arrears of Rent or Secured Debt (Mortgage) on a Principal Residence

The owner may apply under this category if either the owner or his or her spouse has received either:

- a written demand for payment of arrears of rent on the owner's principal residence; or
- a written demand in respect of a default on a debt secured against the owner's principal residence (such as a mortgage),

and the owner could face eviction if the debt or amount in default remains unpaid. The demand for payment of rent or default on secured debt (mortgage) must be in writing; a verbal demand is not sufficient.

Examples of debts secured against a principal residence include a mortgage, a line of credit secured against the principal residence, or a lien registered against the principal residence. This list is not exhaustive, and if another type of secured debt is the subject of the demand, the financial institution must determine whether it qualifies.

The demand for payment may have been received by either the owner or the owner's spouse, but the demand must pertain only to the owner's principal residence, not the spouse's principal residence (if different).

Question 1: Previous applications

Only one application may be made in each calendar year under the arrears of rent or secured debt (mortgage) category.

Question 2: Maximum amount that may be withdrawn

The maximum amount an owner can withdraw is the **smaller** of:

1. Box 2a: 50% of the YMPE for the year - this amount will be pre-filled in box 2a - and
2. Box 2b:
 - the total amount of the arrears of rent, plus the total amount of rent payable for 12 months after the date the application is signed, **or**
 - the sum of the total payments in default on a secured debt (mortgage) plus the total amount of payments due plus interest payable on the debt for the 12 months after the date the application is signed.

The smaller of boxes 2a and 2b must be set out in box 2c.

The total amount of arrears should not be greater than the amount set out in the written demand. However, the amount set out in 2b will, in most cases, be greater than the arrears as it includes an additional amount with respect to payments over the 12 months following the date the application is signed. With respect to future payments, it is up to the owner to determine the total amount of rent, or debt (mortgage) payments plus interest, he or she is applying for.

Question 3: How much is the individual applying for

The amount the owner is applying for must be set out in box 3. It cannot be greater than the amount in the locked-in account that is the subject of this application or the amount set out in box 2c. It cannot be less than \$500.00.

Example: the maximum Howard is allowed to withdraw under the Regulation (the amount in box 2c) is \$8,000.00 but he only has \$6,000.00 in his account. Howard should not ask for more than \$6,000.00. If he does, the financial institution should advise him that he has only \$6,000.00 in his account and suggest that he amend the application. Howard can then decide whether to amend or withdraw the application.

Question 4: Principal residence

The principal residence on which there are arrears of rent or mortgage does not have to be the same residence as the one in which the owner is currently residing. His or her current address may be temporary, or it may be a seasonal residence. However, the principal residence must be occupied as the primary place of residence.

Additional documents required:

The owner must provide a copy of the written demand in respect of arrears in the payment of rent or in respect of the default on the debt secured against the principal residence. This demand may be in the form of a letter, a notice or another type of document but must:

- be in writing;
- relate to the account owner's principal residence; and
- be current (it cannot be signed or dated more than 12 months before the financial institution receives it).

FORM FHU 3 – FIRST AND LAST MONTHS' RENT FOR A PRINCIPAL RESIDENCE

Part 2: First and last months' rent for a principal residence

The residence that is being rented must be intended to be occupied by the owner as his or her principal residence. Either the owner or the owner's spouse may be the person who requires the money to pay first and last months' rent.

Example: Earl owns a locked-in account. Earl's wife Lorraine seeks to rent a house that will be the principal residence for both of them. Lorraine arranges the lease and it will be in her name. Earl's application should qualify because the house will be Earl's principal residence.

Question 1: Previous applications

Only one application may be made in each calendar year under the first and last months' rent category. If an individual has applied for first and last months' rent for a certain principal residence, and in the same calendar year, he or she wants to move to another principal residence and apply again under the same category, the application must be rejected.

Question 2: Maximum amount that may be withdrawn

The maximum amount an owner can withdraw is the **smaller** of:

1. Box 2a: 5% of the YMPE for the year - this amount will be pre-filled in box 2a - and
2. Box 2b: the amount required for first and last months' rent.

The smaller amount must be entered in box 2c, which is the maximum amount that may be withdrawn.

Question 3: How much is the individual applying for

The amount the owner is applying for must be set out in box 3. It cannot be greater than the amount in the locked-in account that is the subject of this application or the amount set out in 2c. It cannot be less than \$500.00.

Question 4: Address of the principal residence being rented

The address must be filled in. It may be different from the current mailing address or residence.

Additional documents required: If the owner has a copy of the rental agreement, it must be included with the application. However, if a copy of the rental agreement is not available, it need not be included and, in such case, the financial institution may approve the application without it.

FORM FHU 4 – LOW EXPECTED INCOME

Part 2: Expected Income

Question 1: Previous application

An owner may apply only once in each calendar year under the low expected income category. If the owner applies more than once, the later application must be rejected.

Question 2: Expected total income

The owner must set out his or her expected total income from all sources, before taxes, for the 12-month period beginning on the date of the application. This refers to the income the owner expects to receive **for the next 12 months**, not the amount he or she received in the past 12 months. This amount should not include the income of the owner's spouse. It should **not** include the amount he or she expects to withdraw under this category.

The owner must include the following amounts, as applicable, in determining the amount of total income from all sources, before taxes, that the owner expects to receive for the next 12 months:

- wages, salaries, casual earnings and amounts paid under a training program;
- income from self-employment (net of expenses but before taxes);
- rental income (net of expenses but before taxes);
- payments received under an annuity, pension plan, registered retirement savings plan, registered retirement income fund, superannuation scheme, or earnings replacement program;
- insurance benefits;
- spousal support payments;
- capital gains arising from the sale or disposition of an asset;
- cash payments received under a government program (except for those excluded below), such as Canada Pension Plan, Old Age Security, or Ontario Works;
- interest and dividend income on any investment; and
- other income from any other source.

Expected total income does not include the following:

- the amount he or she expects to withdraw under the low income category;
- a refund or repayment of taxes paid to a Canadian jurisdiction;
- a refundable tax credit;
- a refund of tax paid under the Ontario Child Care Supplement for Working Families program under section 8.5 of the *Income Tax Act*;

- the payment of an Ontario child benefit under section 8.6.2 of the *Income Tax Act* or under section 104 of the *Taxation Act, 2007*;
- a payment received by a foster parent under the *Child and Family Services Act*;
- child support payments received under a court order or an agreement.

The total amount of expected income must be entered in box 2.

If the amount in box 2 is greater than 66 2/3 percent of the YMPE for the applicable year, the application must be rejected.

Question 3: Maximum amount that may be withdrawn

The maximum amount an owner may withdraw is:

1. Box 3a: 50% of the YMPE for the year in which the application is signed - this amount will be pre-filled in box 3a,

minus

2. Box 3b: 75% of the owner's expected total income from all sources, before taxes, for the 12-month period after the date on which the application is signed, which is the amount in box 2.

The remainder must be entered in box 3c, which is the maximum amount the owner may withdraw.

Question 4: How much is the individual applying for

The amount the owner is applying for must be set out in box 4. It cannot be greater than the amount in the locked-in account that is the subject of this application or the amount set out in box 3c. It cannot be less than \$500.00.