



## BC FINANCIAL SERVICES AUTHORITY

### **Official Change of Name**

On November 1, 2019, BC Financial Services Authority (BCFSA) replaced the Financial Institutions Commission (FICOM) as BC's regulator of credit unions, trust companies, insurance companies, pension plans and mortgage brokers. All references in the attached document to **FICOM** and the **Financial Institutions Commission** should be read as **BCFSA** and **BC Financial Services Authority** until revised or replaced by the name of the Authority. The attached form or document will continue to be used until otherwise revised or cancelled.

If you have any questions, please contact us at 604-660-3555.

Email: [bcfsa@bcfsa.ca](mailto:bcfsa@bcfsa.ca)



BC FINANCIAL SERVICES AUTHORITY

## Frequently Asked Questions

The new *Pension Benefits Standards Act* of British Columbia (the "PBSA") came into force on September 30, 2015. This document highlights some of the changes introduced by the new legislation.

The PBSA is designed to protect the interests of British Columbia pension plan members. It provides minimum standards for every employment pension plan in such areas as eligibility, vesting, and portability. The PBSA also sets out solvency and investment rules for some types of plans. The following are some commonly asked questions about the PBSA, and how it is applied.

Please continue reading to answer some commonly asked questions about the PBSA, and how it is applied.

**If you cannot find what you are looking for within this document please contact:**

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Telephone: 604 660-3555  
Toll Free: 866-206-3030

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## Pension Unlocking

Pension funds are locked-in to ensure they will be available to provide a source of income when a person retires.

Under the PBSA a member of a pension plan who becomes [vested](#), acquires the entitlement to receive a pension. Pension payments can begin once the person reaches [retirement age](#). In order to protect the financial security of pension plan members and their spouses, vested pension entitlements are required to be [locked-in](#).

The new PBSA allows pension benefits to be unlocked where the owner of the locked-in funds is facing financial hardship. In addition, there are four other circumstances under which a member may unlock pension funds.

**You should first direct all enquiries about locked-in funds to your pension plan administrator or the financial institution holding your pension funds. Answers to some general questions can be found below.**

### **Q. I am facing financial hardship. Can I unlock my pension funds?**

A. The PBSA allows funds held in either a locked-in retirement account (LIRA) or a life income fund (LIF) to be unlocked and withdrawn for reasons of financial hardship in the following circumstances:

- Low Income
- Need to Pay Medical Expenses
- Threat of Eviction for Rental Arrears
- Threat of Default on a Mortgage on a Principal Residence
- Need to pay a deposit to obtain a new Principal Rental Residence

### **Q. If I qualify for unlocking and withdrawal owing to financial hardship, what forms do I need to complete to release funds held in my LIRA or LIF?**

A. You will need to complete [the Application to Unlock and Withdraw British Columbia Funds Due to Financial Hardship](#). If you have a spouse, your spouse will need to complete Form 1, "Spouse's Waiver to Permit Benefits in a Pension Plan, Locked-in Retirement Account or Life Income Fund to be Unlocked." This form is attached to the Application to Unlock and Withdraw British Columbia Funds Due to Financial Hardship.

### **Q. Where do I send the completed application for unlocking and withdrawal owing to financial hardship?**

A. You must send the completed application to the financial institution holding your locked-in funds. Do not send the application to the Superintendent of Pensions, as the Superintendent has no role in releasing funds for reasons of financial hardship

**Q. I am still employed and a member of my employer's pension plan, but I am facing financial hardship. Can I unlock my pension funds in my employer pension plan?**

A. No. The PBSA allows only funds held in either a LIRA or a LIF to be unlocked and withdrawn for reasons of financial hardship.

**Q. I am no longer employed by the company sponsoring the pension plan, but my money is still held in the pension fund. Can I unlock my pension funds for reasons of financial hardship?**

A. You must transfer the funds to either a LIRA or LIF before you may apply to have the funds released for reasons of financial hardship.

**Q. I do not qualify for unlocking and release of funds owing to financial hardship. Are there other options that may be available to me?**

A. In addition to financial hardship, the PBSA provides four exceptions under which locked-in funds can be unlocked by the member.

- [Small Benefits](#)
- [Age 65 and Small Entitlement](#)
- [Permanent Departure from Canada](#)
- [Commutation for Shortened Life Expectancy](#)

Please click on an individual exception for more information.

**Q. If I qualify to unlock my funds, what forms am I required to complete?**

A. The detailed information above will tell you which forms to complete under each exception. Please go to the exception that applies to your circumstance for the correct form required. Completed forms are filed with the financial institution holding your funds, or with your plan administrator.

**Q. I do not qualify to unlock and withdraw funds for financial hardship and none of the other four exceptions apply to me. I was advised to call your office to get permission to unlock my funds from my LIRA or LIF. How do I do this?**

A. The PBSA does not provide the authority to the Superintendent of Pensions to unlock pension funds. Your pension funds can be unlocked only if you qualify for reasons of financial hardship or under one of the four exceptions above.

## **Marriage Breakdown**

The division of pension entitlement on marriage breakdown is dealt with under Part 6 of the [Family Law Act](#). The *Family Law Act* comes under the jurisdiction of the [Ministry of Attorney General](#). If you have questions concerning your entitlement as a result of a marriage breakdown, you should seek legal advice.

Plan administrators and members, as well as consultants and lawyers, who have questions concerning the division of pension entitlement on marriage breakdown, may also refer to the [Questions and Answers About Pension Division on Marriage Breakdown in British Columbia](#).

**Q. My spouse and I are separated/divorced. Am I entitled to a portion of his pension plan?**

A. Pensions are a “Family Asset” under the *Family Law Act*. The division of family assets, including pension credits, comes under that legislation. Part 6 of the *Family Law Act* provides detailed procedures for valuing and dividing a pension after a marriage breakdown. The division may be made through a Matrimonial property order made by a court in British Columbia.

**Q. My spouse and I are divorcing and have agreed to waive our rights to each other’s pension benefits. How do we do this?**

A. A pension is considered a “Family Asset” under the *Family Law Act*. To waive your rights to each other’s pensions, please contact your lawyer and also your plan administrator/financial institution for the necessary forms.

## Individual Pensions Benefits

**Q. When can I retire?**

A. Your pension plan defines an age at which you can start to receive a pension without adjustment for either early retirement or deferred retirement. This is called your “pension eligibility date.” Under the PBSA, you can retire and commence receiving your pension at any time within 10 years of your “pension eligibility date.”

**Q. My plan’s “pension eligibility date” is age 65. I want to retire at age 60. Will I receive my full pension?**

A. If you retire early, the amount of pension you receive may be adjusted. The adjustment in your pension, if any, will be described in the plan text document. If you retire early, the plan must pay your pension for a longer period of time, so the plan may reduce your pension, subject to the limits on these reductions set out in the PBSA. The maximum reduction is called the “actuarial equivalent” of the pension payable at age 65. If you have questions on the reduction that may apply to you, contact the pension plan administrator.

**Q. Can I keep working and contributing past normal retirement age?**

A. If you work past your “pension eligibility date” you may be able to continue to contribute to the plan or accrue additional benefits. Your pension plan may; however, stipulate a maximum number of years you can earn benefits under the plan, or a maximum pension that can be earned. Some plans may allow you to start receiving your pension after your “pension eligibility date” instead of earning more pension benefits. Your pension payments must commence no later than the end of the calendar year in which you turn 71. If you work past your “pension eligibility date,” the pension paid to you will be increased to reflect the deferral of your retirement.

**Q. If I transfer my benefits out of the pension plan how long do they remain locked-in?**

A. Unless you qualify to unlock your pension benefits for reasons of financial hardship or under one of the four exceptions mentioned above pension benefits are always locked-in even if they are transferred out of the pension plan in which you were a member. The money must only be used for the purposes of providing a stream of retirement income.

**Q. I will be retiring soon. Why does the PBSA require me to select a joint and survivor pension when I retire?**

A. In the past, some pension plans guaranteed payment only as long as the pensioner lived, leaving the surviving spouse with little or no income. A joint and survivor pension ensures that your spouse will receive at least 60% of your monthly pension payments, should you die first.

**Q. Can I waive the right to a joint and survivor form for my pension?**

A. No. Only your spouse can waive his/her rights to a joint pension. To waive his/her rights your spouse must sign an approved form ([Form 2](#)), in the presence of a witness, no more than 90 days before you start to receive the pension. You are not permitted to be present when your spouse signs this form.

**Q. I have been living with my partner for 3 years. Is he/she considered to be my "spouse"?**

A. Yes. The PBSA defines a spouse to be a person who, at the time

- was married to and living with you or, if recently separated, had been separated from you for less than 2 years, or
- the person with whom you have been living and cohabiting, in a marriage-like relationship, for at least 2 years immediately preceding the relevant date

**Q. My spouse has died. He/she was not yet receiving a pension, but was vested in his/her pension plan. Will I receive any benefits?**

A. Yes, the amount you receive will depend on the type of pension plan that your spouse belonged to and the provisions of that plan.

**Q. I am a widow/widower, and am receiving a survivor pension. Will I lose my pension if I remarry?**

A. No. Survivor benefits do not cease upon remarriage.

**Q. Can I suspend participation in my pension plan while still employed?**

A. If the pension plan in which you are a member allows you to do so, you may suspend your participation in a pension plan while still employed.

**Q. I have suspended my participation in my employer's plan. Can I rejoin the plan?**

A. If you have suspended your participation, you must be given the option to rejoin the plan effective January 1 or July 1 of any year while you are employed.

**Q. How do I change the beneficiary of my pension benefits from my spouse to my children?**

A. The PBSA provides that if a pension plan member or former member dies before retiring, and has a spouse at the time of death, the preretirement survivor benefit must be paid to the spouse. Your spouse may however waive his/her right to your benefit by completing a [Form 4](#). Please contact your plan administrator for a change of beneficiary form.

**Q. I terminated from my employer a number of years ago and I am now ready to start receiving my pension benefit. How much pension will I receive and when can I start receiving my pension?**

A. To determine how much your pension will be and when you can start receiving your pension benefit, please contact your plan administrator.

## Life Income Funds (LIFs)

The PBSA allows members to transfer the value of their locked-in pension benefits from their pension plan to a LIF as early as age 50. A LIF contract provides the flexibility of managing your investment and also determining your annual benefit withdrawal amounts. The CRA sets the minimum annual amount which must be withdrawn from your LIF account and the PBSR sets the maximum amount.

**Q. What is the maximum amount of money I am allowed to take out of my Life Income Fund (LIF)?**

A. The maximum annual withdrawal from a LIF is prescribed by the Pension Benefits Standards Regulation (the "PBSR"). This amount varies according to your age, current long-term interest rates and the previous year's investment return for the fund. Your financial institution should be able to calculate your annual minimum and maximum withdrawal amounts.

**Q. If I transfer benefits out of the pension plan, when can I start receiving monthly payments?**

A. If your pension funds are held in a LIRA, you may transfer money to a LIF or purchase an annuity at any time on or after your 50<sup>th</sup> birthday.

**Q. When I terminated from my former employer in 1979, I transferred my pension funds to a locked-in account at my financial institution. I want to withdraw the money now. Can I do that?**

A. The BC pension legislation came into force on January 1, 1993. Since you terminated your membership in the plan prior to 1993, the locking-in rules under the BC legislation would not apply to your locked-in accounts. Your pension benefits are therefore subject to the terms of the plans provisions at the time of your termination of membership. Your pension administrator should be able to tell you what your options are.

## General

**Q. Does my pension benefit fall under BC legislation or that of another province?**

A. The determination of which province's pension laws apply to locked-in pension money depends on which province the person worked in when the person terminated rather than the location of the financial institution holding the money, the person's subsequent place or residence, or where the pension plan is registered (unless federally regulated).

**Q. Is my pension plan registered in BC?**

A. We keep a [list of pension plans registered in BC](#) on our web page. Follow the link to the folder.

**Q. Does the PBSA require my employer to set up a pension plan?**

A. No. Establishment of a pension plan is voluntary. The PBSA applies only to an employer who already has a pension plan in place, or sets up a new plan.

**Q. My employer went bankrupt. What happens to our pensions?**

A. To protect your pension benefits, the [PBSA](#) requires that contributions to a pension plan, and the related investment income, be held in a pension fund which is separate from the employer.

In the event of bankruptcy, the BC Financial Services Authority (BCFSA) will appoint an administrator to protect the interests of the pension plan members. The administrator will take control of the pension plan and pension fund and will wind up the plan.

If you belong to a defined benefit plan which is fully funded, your benefits are not affected. If the plan is not fully funded, member benefits may be reduced, as provided in the PBSA and the plan.

If you belong to a defined contribution plan, your benefits are not likely to be affected by a bankruptcy, unless current contributions to the plan have not been remitted by your employer. Also, benefits may be reduced slightly to cover the costs associated with the windup.

**Q. Is my pension fully guaranteed?**

A. Pensions are not guaranteed by the PBSA. The PBSA requires plan sponsors to adequately fund all benefits earned by members, and to make special payments to make up any funding shortfalls. The PBSA also restricts how pension funds may be invested, in order to safeguard members' benefits. The PBSA requires pension funds to be held by an authorized fund holder, such as a trust company, group of trustees or life insurance company.

**Q. I can't seem to get any information about my benefits or entitlements under the pension plan.**

**Who do I talk to?**

A. You should write to your plan administrator indicating that you are entitled to pension information under section 37 of the PBSA. You may also get information from your employer, or your union representative. If you are unable to get the information required under the PBSA, write to the Pensions Department of the BC Financial Services Authority, which will investigate on your behalf.

**Q. Why is the name of the institution not reflected on the Superintendent's List?**

A. Changes were made to the Superintendent List when the new legislation came into force on September 30, 2015. The new list will only reflect saving institutions.

**Q. How do we establish the name of the institution?**

A. Please refer to the Declaration of Trust agreement that is attached to the LIRA or LIF contract. It is our understanding by referring to that document/addendum, you will be able to obtain the name of the institution.

**Q. What do we do if our transfer is not accepted because the name of the institution is not reflected on the Superintendent List?**

A. It is the responsibility of the member and the receiving institution to ensure that the name of the institution is clearly reflected in the transfer documents.



**Q. What must you do to add an institution to the Superintendent List?**

A. The institution must apply to be included on the Superintendent's List. The applicant can be accessed [here](#).

**Q. Where can I get further information?**

A. For more information about the PBSA, please contact us using the information on our [Contact](#) page.