

Commercial Lease Rent Deferral Program - COVID-19 Support Program

Program Guidelines (Updated April 7, 2020)

Overview	The Commercial Lease Rent Deferral Program (CLRDSP) will indemnify qualified landlords for losses incurred as a result of granting a rent deferral, pursuant to a commercial lease for business premises, to qualified businesses directly impacted by Directives and/or Orders issued by the Province of Prince Edward Island pursuant to the <i>Public Health Act</i> , related to the COVID-19 pandemic on commercial and retail premises for the period April 1, 2020 to June 30, 2020.
Qualified Business	To be considered a Qualified Business, a tenant must meet each of the following requirements: <ol style="list-style-type: none">1. Have at least the two employees, one of whom must be fulltime and unrelated to any shareholder, partner or owner of the business, and total employee wages of not less than \$45,000 (on an annual basis),2. It is not a corporate store of a franchise network with establishments located outside the province,3. Is an active business as defined in the <i>Income Tax Act</i> of Canada,4. Is registered to do business in Prince Edward Island,5. Is primarily engaged in one of the business activities identified as non-essential in accordance with the Directives and/or Orders pursuant the <i>Public Health Act</i>, including the following business activities (“Qualified Business Activities”):<ul style="list-style-type: none">• Bowling alleys• Casinos• Gyms and recreation centres• In-service restaurants and bars• Museums• Personal Service Facilities, e.g. Esthetics• Retail stores, other than those identified as essential• Salons and spas• Shopping malls (except that part of the shopping mall operating an essential service)• Sporting and concert venues• Tattoo and piercing studios• Theatres• Other business activities as may be identified as non-essential.

<p>Qualified Establishment</p>	<p>A Qualified Establishment means a permanent place of business in the province in which a Qualified Business, dealing with a Qualified Landlord, has entered into a lease agreement with a Qualified Landlord prior to March 1, 2020. A place of business shall not be a Qualified Establishment unless the place of business is used solely for business activity and not, whole or in part, for residential purposes.</p>
<p>Qualified Landlord</p>	<p>A Qualified Landlord means a landlord renting commercial or retail premises to a Qualified Business(es) in the province who has, prior to April 20, 2020, granted rent deferral to a Qualified Business as a result of the Directives and/or Orders pursuant to the <i>Public Health Act</i>, with rent deferral being for the period between April 1, 2020 and June 30, 2020.</p>
<p>Relationship between Landlord and Business</p>	<p>A Qualified Landlord shall only be eligible for the indemnity hereunder in respect of losses arising from a rent deferral arrangement with a Qualified Business with whom the Qualified Landlord deals at arm's length, within the meaning of Section 251 of the <i>Income Tax Act</i> of Canada.</p>
<p>Qualified Deferral Agreement</p>	<p>A Qualified Deferral Agreement is an agreement between a Qualified Business and Qualified Landlord agreed to by both parties between March 16, 2020 and April 20, 2020, for the deferral of rent or lease payments due in the period between April 1, 2020 and July 1, 2020 ("Deferred Rent") with respect to a Qualified Establishment, and which includes provisions for the repayment of deferred rent payments.</p>
<p>Indemnity</p>	<p>In recognition of the Covid-19 related Directives and/or Orders pursuant to the <i>Public Health Act</i>, the Government of Prince Edward Island intends to establish an indemnity fund for Qualified Landlords for actual, direct rent losses arising from a rent deferral for businesses engaged one or more of the Qualified Business Activities.</p>
<p>Indemnity Amount</p>	<p>The total indemnity to a Qualified Landlord shall be actual, direct rental losses as a consequence of granting rent deferral with respect to a Qualified Business but shall not exceed Fifteen Thousand Dollars (\$15,000) for any Qualified Establishment. For greater certainty, only the amount of the unrecoverable deferred rent is subject to the indemnity; no indemnity is provided for any other losses including interest, costs of collection, or any other costs.</p>

	<p>Under no circumstances will the total indemnities paid under the CLRDSP to a Qualified Landlord, or a group of Qualified Landlords having one or more shareholders, partners, or owners in common control as defined by the Canadian Income Tax Act, exceed Fifty Thousand Dollars (\$50,000).</p>
<p>Application process and deadlines</p>	<p>April 20, 2020 - Qualified Landlords and Qualified Businesses must have agreed to rent deferral no later than April 20, 2020.</p> <p>April 20, 2020 – Qualified Landlords who have agreed to rent deferral for Qualified Businesses must notify Finance PEI (financepei@gov.pe.ca) of its intent to register a Qualified Deferral Agreement for eligibility for the CLRDSP. Such notification must include:</p> <ul style="list-style-type: none"> ○ Legal name of the Qualified Landlord, ○ For each Qualified Deferral Agreement: <ol style="list-style-type: none"> 1. Legal name of the Qualified Business(s), 2. Address of Qualified Establishment(s), 3. Total dollar amount of rent being deferred for the period April 1 to June 30, 2020. <p>April 30, 2020 – Qualified Landlords must apply to the Government of Prince Edward Island for participation in the CLRDSP, and deliver to Finance PEI all required information and documentation, including:</p> <ul style="list-style-type: none"> ○ Completed application form for each Qualified Deferral Agreement, ○ Copy of the Qualified Deferral Agreement(s) The application form will include the following: <ol style="list-style-type: none"> 1. Address and contact information for the Qualified Landlord 2. Address and contact information for the Qualified Business, 3. Attestation of the Qualified Business that it meets the definition of a qualified business as defined. <p>June 30, 2021 - Qualified Landlords must file with the Government of Prince Edward Island a notice of any claim or potential claim under the CLRDSP.</p> <p>No notices of claim(s) will be accepted after June 30, 2021 unless extended by the Minister of Economic Growth, Tourism and Culture. See “How to Claim” below.</p>

	<p>September 30, 2021 – final claims for any indemnity must be filed with the Government of Prince Edward Island. Qualified Landlords must include evidence satisfactory to Finance PEI that they have undertaken commercially reasonable measures to collect deferred rent.</p> <p>Payments to Qualified Landlords from the indemnity fund will be completed upon satisfactory review of the final claim. No payments will be issued prior to June 30, 2021.</p>
<p>Responsibility of the Qualified Landlord to Mitigate Damages</p>	<p>The Qualified Landlord must make reasonable commercial efforts to mitigate its damages prior to filing a claim under the CLRDSP. The Qualified Landlord will be required to swear an affidavit to substantiate their damages were incurred as a result of granting a rent deferral to a Qualified Business as a result of the Order.</p>
<p>Maximum Program Amount</p>	<p>The total obligation of the Government of Prince Edward Island under the CLRDSP will not exceed One Million Five Hundred Thousand Dollars (\$1,500,000), unless increased by the Government of Prince Edward Island.</p> <p>The Government of Prince Edward Island reserves the right to pro-rate payments under the CLRDSP should the total amount of indemnity claims exceed One Million Five Hundred Thousand Dollars (\$1,500,000).</p>
<p>How to Claim</p>	<p>The Qualified Landlord must notify Finance PEI in writing on or before June 30, 2021 of its intent to claim amounts under the indemnity.</p> <p>No later than September 30, 2021, final claims must be filed which must include the dollar amount for each Qualified Deferral Agreement(s) upon which they wish to register a claim.</p> <p>Finance PEI may request such supporting documentation to substantiate the claim which may include, but not be limited to:</p> <ol style="list-style-type: none"> 1. Copies of the original lease agreement(s) evidencing rent payments deferred; 2. Efforts to take reasonable commercial efforts to collect deferred rent or lease payments from the Qualified Business; 3. Affidavit to substantiate direct damages incurred by the Qualified Landlord as a direct result of the deferral of rent or lease payments as a result of the COVID-19 Health Directives or Orders.