

Pension Benefit Guaranty Corporation

76-21

February 10, 1976

REFERENCE:

[*1] 4082(c). Effective Date; Special Rules. Applicability of Title IV to Multiemployer Plan Terminations

OPINION:

This is in response to your inquiry concerning the * * * (hereinafter referred to as the "Fund").

The Fund is a multiemployer pension plan which provides benefits to approximately 1,500 pensioners ranging from \$25 to \$300 per month. There are approximately 880 active participants under the plan. The present unfunded liability of the Fund is \$32,000,000.

The Fund applied, on November 15, 1974, to the Pension Benefit Guaranty Corporation (hereinafter referred to as the "PBGC") for termination insurance for a partial termination, because of the Fund's future inability to pay benefits when they came due and the excess of benefit expenditures over income. Multiemployer plans which terminate before January 1, 1978 are not insured under Title IV of the Employee Retirement Income Security Act of 1974 (hereinafter referred to as the "Act"); however, with limitations, the PBGC may exercise its discretion to pay benefits with respect to such a plan which terminates before that date. See § 4082(c) of the Act.

The Fund was informed by the PBGC that a partial termination is not an insurable [*2] event under Title IV of the Act. The PBGC also advised the Fund that, since § 4082(c)(4) of the Act may require the reduction of benefit payments guaranteed prior to January 1, 1978, if possible, the plan should attempt not to terminate before that date. The Fund's representatives expressed the opinion that the Fund will not be able to continue through 1977. On December 17, 1975, the PBGC was notified that the Fund was amending its application for termination insurance to cover a full termination.

Whether the PBGC will exercise its discretion pursuant to § 4082(c) of the Act in this case depends upon PBGC's appraisal of all the facts and circumstances, including the hardship participants would suffer absent guarantees, the cost to the PBGC, the likelihood and manner of recovering all or a significant portion of the PBGC's outlay from employer liability payments, the likelihood that the plan could continue in operation until coverage becomes mandatory on January 1, 1978, the status of our resources in light of anticipated multiemployer plan terminations (including those currently under consideration) and the like. The PBGC is currently attempting to ascertain what amounts it would [*3] receive in employer liability payments (See § 4064 of the Act) if the PBGC guaranteed benefits.

I hope this is of assistance.

George B. Driesen
Deputy General Counsel