

Pension Benefit Guaranty Corporation

75-119

July 21, 1975

REFERENCE:

[*1] 4041(a) Termination by Plan Administrator. Filing of Notice of Intent to Terminate 4082(c). Effective Date; Special Rules. Applicability of Title IV to Multiemployer Plan Terminations

OPINION:

Two questions were posed by your letter regarding multiemployer pension plans. The first question reads, "must a multiemployer pension plan that terminates prior to 1978 notify the Corporation of its intention to terminate?"

At this time our regulations do not require that a multiemployer plan terminating prior to January 1, 1978 notify the Pension Benefit Guaranty Corporation ("PBGC") of the proposed termination.

The second question posed by your letter, "Will such a terminated pension plan be covered for 'insured' benefits by the Corporation if indeed it does terminate prior to 1978?", requires a more detailed response.

Generally the PBGC is prohibited from paying benefits guaranteed under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") to multiemployer plans that terminate prior to January 1, 1978. (ERISA Section 4082(c)(1)) However, PBGC is given discretionary authority to pay benefits guaranteed under ERISA for covered multiemployer plans that terminate after [*2] September 2, 1974 and before January 1, 1978, if certain conditions are met. (ERISA Section 4082(c)(2)) * * *

The PBGC may exercise its discretionary authority if the following findings are made:

1. The plan was maintained during the 60 months immediately preceding the date on which the plan terminates, (ERISA Section 4082(c)(2)(A)) and * * *

2. The PBGC determines that the payment of any benefits guaranteed under Title IV of ERISA with respect to the terminated multiemployer plan will not jeopardize the payments the PBGC anticipates it may be required to make in connection with multiemployer plans terminating after December 31, 1977. (ERISA Section 4082(c)(2)(B)) * * *

Notwithstanding Sections 4021 and 4022 of ERISA, (the basic insurance coverage provisions), the PBGC can exercise its discretionary authority to pay benefits in respect to any multiemployer plan that terminates after September 2, 1974 and before January 1, 1978 if three additional conditions are met. The additional conditions are, * * *

1. The plan has been in effect for at least 5 years, * * *

2. The plan has been in substantial compliance with the funding requirements for a qualified plan with respect [*3] to the employees and former employees in those employment units on the basis of which the participating employers have contributed to the plan for the preceding 5 years, and * * *

3. The participating employers and employee organization or organizations had no reasonable recourse other than termination. (ERISA Section 4082(c)(3)) * * *

If the PBGC does elect to pay any benefits to terminating multiemployer plans under the circumstances described above, the PBGC retains the authority to review its decision and reduce or terminate any such payments to the extent necessary to avoid jeopardizing the ability of the PBGC to make payments of benefits guaranteed under Title IV for multiemployer plans terminating after December 31, 1974. (ERISA Section 4082(c)(4)) * * *

A copy of ERISA is enclosed for your convenience. I hope this information has been helpful.

Henry Rose
General Counsel