

Pension Benefit Guaranty Corporation

77-165

September 26, 1977

REFERENCE:

[*1] 4023 Contingent Liability Coverage

OPINION:

In response to your request (on behalf of the above-named) for an opinion as to the date when contingent employer liability insurance ("CELI") will be made available to employers who are participants in multiemployer plans, please be advised that no date has as yet been set in that regard.

As you are aware, the staff of the Pension Benefit Guaranty Corporation ("PBGC"), and a special CELI subcommittee of the PBGC Advisory Committee, have been working hard at developing a feasible CELI program. The subcommittee * * * is expected to submit its report shortly. The subcommittee report will then be referred to the Advisory Committee which will make its recommendations to the PBGC. It is expected that the Board of Directors will consider the matter at an early meeting.

As you note in your letter, it is our view that Section 4023, as finally enacted, is directory in character and that the 36-month reference pertains to efforts to evolve a joint CELI program with private insurers. Such efforts, as you know, have been unsuccessful.

In any event, Section 4023(d) provides that no CELI coverage will become effective until premiums have been paid for 60 [*2] months. It is presently contemplated that when CELI coverage is offered with respect to both single and multiemployer plans, premiums will be payable retroactively. Since the earliest date that CELI coverage can become effective is September 2, 1979 under present law, there is no immediate prejudice to employers.

I trust the above serves the purpose of your inquiry.

Henry Rose
General Counsel