

Pension Benefit Guaranty Corporation

75-9

April 29, 1975

REFERENCE:

[*1] 4004(f). Temporary Authority

4064(a) Liability of Employers in Multiple Employer & Multiemployer Plans. Applicability

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

OPINION:

Your letters to the Secretaries of Labor and Treasury requesting an exemption for the * * * from the employer liability provisions of sec. 4064 of the Employee Retirement Income Security Act of 1974 (the "Act") relating to multiemployer plans have been referred to the Pension Benefit Guaranty Corporation (the "Corporation") for reply. You stated in your correspondence that * * * believes it is unfair to impose liability on employers contributing to multiemployer plans because many such employers typically have no knowledge of nor participate in the administration of the pension trusts. Moreover, you noted that in your industry the plans are equally controlled by union trustees.

Under sec. 4082(c) of the Act, the Corporation generally does not pay benefits guaranteed under Title IV, and thus there is no employer liability with respect to multiemployer plans which terminate prior to January 1, 1978. The Corporation does have discretion in certain cases [*2] to pay guaranteed benefits with respect to such terminations prior to January 1, 1978 but, of course, it has not yet had cause to exercise this discretion with respect to any of the plans maintained by the members of * * *. While the provisions of sec. 4064 do not presently apply to any of your members (and may well not apply until subsequent to January 1, 1978), I wish to inform you of the very limited and specific circumstances under which the Corporation is authorized to grant such exemptions.

Sec. 4004(f) of the Act provides that: "In addition to its other powers under this title, for only the first 270 days after the date of enactment of this Act the Corporation may--

(4) waive the application of the provisions of sections 4062, 4063, and 4064 to, or reduce the liability imposed under such sections on, any employer with respect to a plan terminating during that 270 day period if the Corporation determines . . ."

As the Corporation is only authorized to waive the application of sec. 4064 from September 3, 1974 through, and including, May 30, 1975 when it is being applied to an employer whose plan has terminated during that period and as sec. 4064 does not apply to * * * members [*3] until January 1, 1978, it is apparent that the Corporation is precluded from granting the requested exemptions.

Steven E. Schanes