

Pension Benefit Guaranty Corporation

88-1

1988 PBGC LEXIS 1

January 11, 1988

REFERENCE:

[\*1] 4204(b)(1) - Liability of Purchaser  
4211(b) - Withdrawal Liability - Presumptive Method

OPINION:

This responds to your request for the opinion of the Pension Benefit Guaranty Corporation ("PBGC") as to whether section 4204 of the Employee Retirement Income Security Act, as amended ("ERISA"), requires that the withdrawal liability of a purchaser to which that section applies be computed using the statutory presumptive method of section 4211(b), rather than the method adopted by the multiemployer pension plan in question.

Section 4204(b)(1) provides that the liability of a purchaser under section 4204:

shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 years.

This provision does not otherwise amend the rules for determining withdrawal liability found in sections 4201-4225 of ERISA. The legislative history that accompanies this provision also does not indicate any Congressional intent to vary these rules. Therefore, it is our opinion that a purchaser's liability is to be determined under the plan's duly adopted allocation method, as modified by section 4204(b)(1).

I hope this [\*2] has been of assistance. If you have further questions, please contact the attorney handling this matter, John Foster, at (202) 778-8850.

Gary M. Ford  
General Counsel