NRLN
NATIONAL RETIREE
LEGISLATIVE NETWORK
10 Years of Progress, 2002 - 2012

Pension Benefit Guaranty Corporation (PBGC) Reform

Commonsense Proposals

Talking Points:
The Pension Benefit Guaranty Corporation (PBGC) should provide retirees with reasonable assurances that the retirement benefits they earned through decades of service to a single employer will be protected. Unfortunately, the PBGC appears to be more interested in protecting its own bottom line than treating retirees fairly when it assumes trusteeship of a terminated defined benefit pension plan.

For example, the agency treats changes in annual earnings limits, mandated by Congress through IRS code changes under Sections 401(a) and 415(b) as pension plan modifications, applying the lowest limits during the five years prior to plan termination when calculating retirees' PC3 benefits. During the period of time when the temporary earnings reductions imposed by the Omnibus Budget Reconciliation Act of 1993 were in effect, this procedure alone could cost retirees over $30,000 per year in earned, and funded, benefits. The PBGC also eliminates vested pension benefits of retirees if those benefits were granted within five years of a pension plan termination. The result of these procedures has been the loss of retiree benefits that should be protected by ERISA.

The NRLN's Proposed Changes to PBGC Rules and Governing Regulations:

- The PBGC should use the defined benefit plan income and pension benefit limits, defined in IRS codes 401(a) and 415(b) in effect on the date of plan termination, when calculating the pension benefits payable under Priority Category Three (PC3).
- PBGC rules should be modified to require the PBGC to use a retiree's age and length of service that were used to determine his/her benefit at retirement, or at plan termination, whichever is higher, when calculating the PC3 pension benefit.
- PBGC procedures used to calculate the termination values of defined benefit plans, or to determine funding levels for PBGC pension benefits, should use the same factors, including the same assumed rate of return on the assets of the plan, used by plan sponsors when meeting their funding and 4010 reporting requirements under ERISA.
- Congress should amend the PBGC reporting structure so it is accountable to one federal agency as opposed to the current three.
- Congress should change bankruptcy law so that retirees' claims for lost pension benefits are classified as Administrative Claims in bankruptcy filings.

PBGC and Pension Plan Asset Protections:
The NRLN urges Congress to pass legislation that requires a foreign owner to abide by all ERISA rules should a U.S. subsidiary be spun off or dissolved.

All U.S.-based assets under control of a foreign owner should remain within the legal jurisdiction of U.S. courts in order to satisfy ERISA funding obligations.

Pension plan fiduciaries should be required to be American citizens, and clarifications must address situations where foreign corporations that own U.S. subsidiaries and are subsequently acquired by a third party, foreign-owned corporation.

For a copy of an NRLN whitepaper on this subject, contact Marta Bascom at 703-863-9611 or marta.bascom@linkspace.net