

DELINQUENCY POLICY
ADOPTED BY THE TRUSTEES OF THE

PLUMBERS & PIPEFITTERS LOCALS NO. 502 & 633
PENSION FUND

and

PLUMBERS & PIPEFITTERS LOCAL UNION NO. 502
HEALTH AND WELFARE FUND

Amended and Restated Effective for Contributions
Due On and After October 1, 2009

The following rules and procedures are adopted by the Trustees of the Plumbers & Pipefitters Locals No. 502 & 633 Pension Fund ("Pension Fund") and the Plumbers & Pipefitters Local Union No. 502 Health and Welfare Fund ("Health & Welfare Fund") (collectively the "Funds") for the purpose of establishing a written policy for the investigation, enforcement and collection of contributions owed to the Funds pursuant to collective bargaining agreements and/or assent of participation agreements, thereby effectuating the requirements of the Employee Retirement Income Security Act of 1974 ("ERISA").

It is the intent of the Trustees that the implementation of this policy will result in reasonable, diligent and systematic efforts being made to collect all contributions due and owing to the Funds.

I. DUTIES OF THE ADMINISTRATOR AND THE UNION

Ascertainment of Delinquent Employers

A. Monthly Contributions.

The collective bargaining agreements by and between the Plumbers, Pipefitters & Service Technicians Local Union No. 502 ("Local 502") and Mechanical Contractors Association of Kentucky, Inc. and/or individual employers and the collective bargaining agreements by and between Plumbers & Pipefitters Local Union No. 633 ("Local 633") and Owensboro Area Contractors Association and/or individual employers require that monthly fringe benefit contributions be made to the Pension Fund or to both Funds by said signatory employers. Local 502 and Local 633 are herein collectively referred to as "Union".

Contributions are due and payable to the Funds' Fringe Benefit Office, 1313 Be Boulevard, Louisville, KY 40215 on or before the 10th day of the month following the month in which eligible employees worked or received wages under a collective bargaining agreement. Contributions for nonbargaining unit employees must be received at the Funds' depositor before the 10th day of the month following the close of the last payroll on the preceding month.

If required contributions are not received at the depository by the 15th day, the contributions are delinquent and the employer is deemed in violation of the collective bargaining agreement and/or assent of participation agreement and the trust agreements incorporated therein.

The Union shall notify the Fringe Benefits Office, in writing, of any contribution rate changes.

B. Delinquency Reports.

The Fringe Benefits Office will enter all employer reports and contributions received and, on a monthly basis following the 15th day, prepare a delinquency report of all employers who had reported in the previous month but who appear delinquent in their current monthly contributions. The delinquency report will include not only employers who have failed to file contribution report forms, but also employers who have failed to remit the full contribution payment owed to the Fund.

This report will be forwarded to the Union for a determination whether the employers who appear on the delinquency report were (a) employers who actually worked during the current reporting period or (b) employers who may have worked in the previous month but who are no longer working within the Union's jurisdiction.

C. Union Coordination

The Union will ensure that the Fringe Benefits Office is in possession of the following documents:

1. All current collective bargaining agreements.
2. Any individual Memoranda of Agreement executed by any employer.
3. Any "Participation Agreement" binding an employer to the terms of the trust agreements establishing the Funds, or either one of them.
4. A list of all Employer Associations which are bound to a collective bargaining agreement with the Union.
5. Lists of all employers who have assigned bargaining rights to an Employer Association and who are thus bound to a collective bargaining agreement through membership in said Association.
6. A report of any known agreements between the Union and any employer which modifies the fringe benefit reporting requirements of a collective bargaining agreement.

The Union will review the monthly delinquency report prepared by the Fringe Benefits Office, investigate the status of the employers who appear delinquent, and promptly notify the Fringe Benefits Office whether any employers who appear on the delinquency report were no longer working within the Union's jurisdiction for the reporting period at issue. The delinquency report

procedures set forth below will be initiated even if the Union fails to update the monthly delinquency report on a timely basis.

Notification to Delinquent Employer by the Fringe Benefits Office

The Fringe Benefits Office will initiate notification to delinquent employer(s) as follows:

1. Letter No. 1 will be mailed immediately upon completion of the monthly delinquency report, advising the employer (a) that plan interest has been assessed on the delinquency and (b) that the report and contributions must be remitted within 10 calendar days.

2. Letter No. 2 will be mailed immediately following the expiration of the cure period provided for by Letter No. 1 to those employers who remain delinquent, advising the employer that contributions must be received by no later than the last calendar day of the month or the delinquency will be referred to the Fund Attorney for legal action. Liquidated damages will be assessed with Letter No. 2; plan interest will continue to accrue. The employer will be further informed that a separate notice will be sent from the Fringe Benefits Office to the employees for whom contributions were reported in the prior month that contributions and hours for Health and Welfare Fund benefits will not be credited effective the first day of the month following the month in which the report is delinquent. The issue of crediting subsequent delinquent reports will be determined by the Trustees on a uniform basis.

3. Letter No. 3 will be mailed by the Fund Attorney following notification from the Fringe Benefits Office of those employers who remain delinquent for the reporting period, advising the employer (a) that liquidated damages and plan interest apply; (b) that legal fees have been assessed; and (c) that a lawsuit will be filed unless the delinquency is resolved within 7 business days of the date of Letter No. 3. The Fund Attorney will also contact the Administrative Office and/or the Union to call any bond or letter of credit. Absent mitigating factors, including advice of counsel, it is the intent of the Trustees to file a lawsuit against employers who remain delinquent.

The foregoing notice procedures may be waived, in whole or in part, in the event of extenuating circumstances, such as but not limited to, an announcement by a delinquent employer that it is going out of business, a non-resident delinquent employer is leaving the jurisdiction, or changes in the ownership of the delinquent employer, and litigation may be accelerated provided no less than 5 days' notice is given to the employer to remedy the delinquency.

Other Collection Duties and Responsibilities of the Fringe Benefits Office

The Fringe Benefits Office shall perform such additional duties in conjunction with the collection of delinquent contributions as may be agreed upon from time to time between the Funds' third party administrator and the Trustees, or their designee. These duties and responsibilities may include, but are not limited to, monitoring of delinquent employers via telephone or other electronic methods, weekly receipt of remittances of delinquent contributions, and filing bond claims.

Delinquency Committee

To monitor delinquent employers between quarterly meetings of the Funds, the Trustees have determined to establish a Delinquency Committee to review employer remittances to the Funds and to discuss with the staff of the Fringe Benefits Office, other representatives of the third party administrator and the Fund Attorney the status of current delinquencies and other matters involving collection efforts. The Delinquency Committee will be appointed by the Chairman of each Fund and will, at a minimum, be composed of a Union Trustee and an Employer Trustee, although any Trustee may attend committee meetings.

Any delinquent employer will be afforded the opportunity to request an appearance before the Delinquency Committee to discuss the employer's current delinquency. Any recommendation of the Delinquency Committee as to action on an employer's delinquent account must be referred to the respective Board of Trustees for final, formal determination.

II. LATE PAYMENT ASSESSMENTS

It is understood and recognized that, under ERISA, one form of prohibited transaction is an extension of credit between the plan and a party-in-interest. Delinquent contributions create a loan due from the employer to the plan and, thus, constitute an impermissible extension of credit.

Additionally, the expenses incurred by the Funds in the collection of delinquent contributions are an administrative expense to the Funds.

Therefore, in consideration of the foregoing, the Trustees adopt the following late payment assessments:

1. Plan interest at the rate of 8% per annum, unless a different rate is established in a collective bargaining agreement, will be assessed on all delinquent employers who submit their reports and contributions to the Fringe Benefits Office on and after the 16th day of the month following the work month.

2. Liquidated damages in the amount of 3% of the unpaid contributions will be assessed on all delinquent employers who submit their reports and contributions to the Fringe Benefits Office between the 26th day of the month following the work month and the last calendar day of said month.

3. Liquidated damages in the amount of 6% of the unpaid contributions will be assessed on all delinquent employers who submit their reports and contributions to the Fringe Benefits Office after the last calendar day of the month following the work month. Legal fees at the current hourly rate will also be assessed against any delinquent employer who is sent Letter No. 3 and such legal fees will continue to accrue in subsequent correspondence, litigation or otherwise until the delinquency is paid or settled.

4. Liquidated damages in the amount of 10% of the unpaid contributions will be assessed on all delinquent employers following the expiration of the cure period provided for in Letter No. 3 and/or against whom litigation is initiated to collect the delinquent contributions.

In the event of extenuating circumstances as described hereinabove, liquidated damages and plan interest will be assessed as set forth above; however, legal fees will begin to accrue immediately with the initial notice to the delinquent employer.

Except in instances when legal action has commenced, the Fringe Benefits Office will notify an employer, in writing, that plan interest and liquidated damages, if applicable, have been assessed on the untimely remittance of contributions and direct the employer to remit a check for said late filing assessments to the Fringe Benefits Office. Should an employer fail to remit the liquidated damages and plan interest, the matter will be treated as a delinquency and the notification procedures above will apply, including the assessment of legal fees.

An employer who is assessed liquidated damages, interest and/or attorney's fees may appeal the assessment, in writing, to the Trustees. In the event the delinquent contributions were paid within 30 days of the due date, the Trustees will automatically grant 1 waiver of liquidated damages and attorney's fees only within a rolling 2 year period; provided, however, that a new signatory employer, acting in good faith but unaware of the Funds' remittance policies and procedures, will be granted an additional automatic waiver by the Fringe Benefits Office if the employer's initial remittance report and payment is untimely. The Trustees have further determined that interest on delinquent contributions is never to be waived. For purposes of this policy, the 1 time waiver relates to the assessment of liquidated damages and attorney's fees on any contributions owed to the Funds and does not entitle the employer to multiple 1 time waivers based on work performed within the jurisdiction of each Local Union.

III. AUDIT PROCEDURES

Notwithstanding any other provision of this policy, the Trustees have determined to audit any employer who is (a) habitually late in the remittance of fringe benefit contributions and/or (b) delinquent 2 times within a rolling 12 month period. In an effort to monitor delinquencies, the Fringe Benefits Office will review, on a quarterly basis, the files of all employers to whom Letters No. 1 and No. 2 have been sent, together with those employers who have been referred to the Fund Attorney, and provide a report to the Trustees of employers to be considered for audit. Interim reports will be furnished by the Fringe Benefits Office to the Delinquency Committee.

In addition, the Trustees have determined to audit new signatory employers within 2 years of the date contributions are first remitted to the Funds.

Once an employer is identified for audit, the Fringe Benefits Office will initiate the audit program procedures previously adopted by the Trustees and incorporated herein by reference, including notification to the Funds' auditor. Upon receipt of the audit authorization letter, the auditor will advise the employer by letter of the pending audit. The auditor will then contact the employer to arrange the time and place of the audit. Reasonable efforts will be made by the auditors to schedule audits in such a way as to minimize travel and other out-of-pocket expenses.

If an employer refuses to produce complete payroll books and records, the auditor will promptly notify, in writing, the Fringe Benefits Office and the Fund Attorney. The Fund Attorney will take the necessary steps, up to and including the filing of a lawsuit, to compel production of the payroll documents. Likewise, if the auditor has any difficulty in scheduling the audit, written notice of the problem shall be promptly given to the Fringe Benefits Office and appropriate action will then be taken, including the possible filing of a lawsuit.

If the employer provides the necessary payroll data, the auditor will conduct the audit in accordance with generally accepted accounting standards. Upon completion of the audit, the auditor will prepare an audit report and submit that report with a cover letter summarizing his findings to the Fringe Benefits Office and Fund Attorney, together with a statement itemizing the services rendered.

The Fringe Benefits Office will review the completed audit, calculate the applicable liquidated damages, interest, attorney fees, if any, and the costs of the audit, if applicable, and forward a demand letter and copy of the audit report findings to the employer. Should an employer dispute any of the auditor's findings, the matter will be handled by the auditor or the Fund Attorney, as circumstances so warrant.

In the event an employer fails to satisfy the demand letter, the matter will be referred to the Fund Attorney for appropriate legal action. Liquidated damages, interest, and attorney's fees will continue to accrue until the matter is resolved through judgment, compromise or settlement.

IV. INSTALLMENT PAYMENT AGREEMENTS

Pursuant to the following guidelines, the Fringe Benefits Office and/or the Fund Attorney is authorized to enter into a written installment payment agreement with an employer to pay any amounts due and owing to the Funds as the result of an audit or otherwise:

- (a) The amount to be paid by the employer is exactly the total amount of contributions due plus liquidated damages, interest, and attorney's fees and audit costs, if applicable;
- (b) The time for payment of the total amount is no longer than 6 months;
- (c) The installment payment agreement is conditioned upon the employer's payment of all current contributions as they become due. Failure to make current contributions and/or an installment payment will void any payment plan established pursuant to these guidelines and all unpaid amounts will become immediately due and owing, whereupon the employer's bond or letter of credit will be called immediately and the matter will be referred to the Fund Attorney for appropriate legal action;
- (d) Together with the written installment payment plan, the employer must sign a consent judgment and such other instruments as the Fund Attorney may deem appropriate under the circumstances.
- (e) Any agreement in accordance with the foregoing guidelines must be finalized within 15 calendar days to avoid legal action, unless circumstances warrant additional time in the discretion of the Fringe Benefits Office and/or Fund Attorney.

In consideration of the time associated with the preparation and processing of an installment payment agreement, the minimum legal fee for any such agreement will be \$750.00, which amount is subject to change from time to time at the discretion of the Trustees.

If an employer desires a payment plan not in compliance with the foregoing guidelines, the Fringe Benefits Office or Fund Attorney, if applicable, will refer the matter to the Trustees for resolution. Under compelling circumstances, the Trustees have the authority to compromise liquidated damages, attorney's fees, audit costs and other expenses, but in no event shall plan interest be reduced or waived, and to extend the duration of an installment payment agreement.

No employer will be granted the courtesy of an installment payment agreement more than 3 times within a rolling 5 year period. Any employer who defaults and fails to cure a breach of an installment payment agreement relinquishes the right to any future installment payment agreements within the current 5 year period.

Nothing herein shall require the Trustees to enter into a payment plan with a delinquent employer and the fact that the Trustees have entered into an agreement with one employer does not entitle another employer to the same or similar agreement; rather, each request for an installment payment plan will be thoroughly evaluated by the Trustees, in conjunction with the Funds' administrator and Fund Attorney.

On a quarterly basis, the Fringe Benefits Office and/or Fund Attorney will update the Trustees as to outstanding installment payment agreements.

IV. LEGAL PROCEEDINGS

In the event a delinquent employer fails to remit unpaid contributions within 7 business days following the date of Letter No. 3, or fails to remit outstanding late payment assessments, the Fund Attorney will, absent extenuating circumstances, file a lawsuit in the appropriate federal district court. In such action, the complaint will seek judgment for all unpaid contributions, liquidated damages, plan interest, audit costs, if any, attorney's fees, costs of the action, and post-judgment interest.

If the Fund Attorney is authorized to file suit to compel an audit, the employer shall be immediately notified that litigation will be instituted against the employer, unless the employer contacts the auditor to schedule the audit within 7 days.

Nothing herein to the contrary, the Trustees reserve the right, in their sole discretion, to compromise any debt in litigation.

In addition to the foregoing, the Fund Attorney is granted the discretion to decide on a case-by-case basis if a motion for injunctive relief is appropriate and to move for a temporary restraining order, for a preliminary injunction and for a permanent injunction against a delinquent employer.

The Fund Attorney is further directed to handle employer bankruptcies and to take appropriate action, including the filing of proof of claims, to protect the interests of the Funds and their participants.

On a quarterly basis, the Fund Attorney will provide an update of legal activities to the Trustees. During the interim, the Trustees, through their Executive Committee, Delinquency Committee, or other designee, will assist the Fund Attorney in resolving issues relating to delinquent employers.

VI. OVERPAYMENTS/UNDERPAYMENTS

Overpayments of employer contributions will be handled by the Fringe Benefits Office in accordance with the Resolution on Refund of Employer Contributions previously adopted by the Trustees. No adjustments to future employer reports is permitted.

Underpayments of employer contributions will be handled in the same manner as delinquent employer contributions, including the application of liquidated damages, interest and attorney's fees. Underpayments of less than \$25.00 in any given month will be "suspended" after sending Letters No. 1 and No. 2 described above, but may be included in future collection efforts against the employer.

VII. PROCEDURES IN THE EVENT OF RETURNED CHECKS

Should the Fringe Benefits Office be advised by its depository bank that an employer has remitted a check that has been returned for insufficient funds, the matter will be treated as a delinquent contribution. If circumstances warrant, the matter will be immediately forwarded to the Fund Attorney to contact the appropriate federal and/or state authorities and for such further legal action as is deemed necessary.

VIII. BONDING

Employers are subject to the bonding requirements of the collective bargaining agreement.

Notwithstanding the foregoing, the Trustees have adopted a separate bonding policy which is attached hereto as Exhibit A.

IX. MISCELLANEOUS

These procedures are not intended to provide, nor shall they be construed to provide, any procedural, substantive, or other rights or defenses to any delinquent employer, nor to any participant or beneficiary. Variations from these procedures are not a defense to any litigation or other efforts to collect any amounts owed by a delinquent employer.

These procedures are not, nor shall they be construed as, an agreement to or an amendment of any collective bargaining agreement.

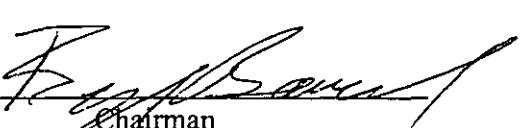
**X. APPLICATION OF LIQUIDATED DAMAGES
AND INTEREST COLLECTED ON DELINQUENT
CONTRIBUTIONS AND LATE PAYMENTS**

The Trustees have the power and authority, in their sole discretion, to determine from time to time the application of liquidated damages and interest collected on delinquent employer contributions and the untimely remittance of employer reports and payments.

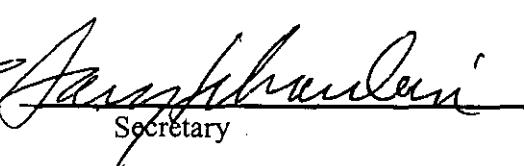
The foregoing Amended and Restated Delinquency Policy is effective for contributions due on and after October 1, 2009.

IN WITNESS WHEREOF, the Trustees of the Plumbers & Pipefitters Locals No. 502 & 633 Pension Fund and the Plumbers & Pipefitters Local Union No. 502 Health and Welfare Fund unanimously consent to and adopt the foregoing Amended and Restated Delinquency Policy this 1st day of September, 2009 and authorize the duly elected Chairman and Secretary of each Fund to affix their names thereto.

**PLUMBERS & PIPEFITTERS LOCALS NO. 502 & 633
PENSION FUND**

 
Chairman Secretary

**PLUMBERS & PIPEFITTERS LOCAL UNION NO. 502
HEALTH AND WELFARE FUND**

 
Chairman Secretary