EBSA/PUBLIC DISCLOSURE

LOCAL 805 PENSION & RETIREMENT FUND
Roderick D. Gorham, Administrator
44-61 11TH Street . Third Floor . Long Island City, N.Y. 11101 . (718) 609-6406

Notice of Critical Status

For

Local 805 IBT Pension and Retirement Fund

This is to inform you that on June 22, 2009 the plan actuary certified to the U.S. Department of the Treasury, and also to the plan sponsor, that the plan is in critical status for the plan year beginning April 1, 2009. Federal law requires that you receive this notice.

Critical Status

The plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the plan's actuary determined that the plan has an accumulated funding deficiency for the current plan year.

Rehabilitation Plan

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. This is the second year the plan has been in critical status. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. On March 1, 2009, you were notified that the plan reduced or eliminated adjustable benefits. On July 27, 2008 you were notified that as of July 27, 2008 the plan is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status. If the trustees of the plan determine that further benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after July 27, 2008.

Adjustable Benefits

The plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the pension plan may adopt:

- ☐ Post-retirement death benefits;
- ☐ Sixty-month payment guarantees;
- ☑ Disability benefits (if not yet in pay status);
- ☑ Early retirement benefit or retirement-type subsidy;
- ☐ Benefit payment options other than a qualified joint-and survivor annuity (QJSA);
- ☐ Recent benefit increases (i.e, occurring in past 5 years);
- ☐ Other similar benefits, rights, or features under the plan {provide identification}

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Employer Surcharge

The law requires that all contributing employers pay to the plan a surcharge to help correct the plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the plan under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the plan is in critical status.

The 5% surcharge took effect starting with work performance in September, 2008 and continued for 7 months through work performed for March, 2009, after which time the surcharge increased to 10%. As the Board of Trustees has adopted a rehabilitation plan, the surcharge has been or will be eliminated for any contributing employer whose contribution level equals or exceeds the contribution level required under the terms of the rehabilitation plan.

Where to Get More Information

For more information about this Notice, you may contact Local 805 Pension and Retirement Fund at (718) 609-6401, 44-61 11th Street, Long Island City, New York 11101. You have a right to receive a copy of the rehabilitation plan from the plan.

Sincerely,

Roderick D. Gorham, MPH
Administrator