

Pension Funds Say Government Insurer Botched Bailout Program (1)

Published: Wed Sep 02 16:14:06 EDT 2026

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(Bloomberg Law) --

Nearly two dozen multiemployer pension funds banded together Wednesday to sue PBGC, the federal government's pension insurer, accusing it of improperly stymieing their attempts to seek financial assistance under a Covid-era government program.

The Pension Benefit Guaranty Corporation has slow-walked pension plans' applications for bailout money under the American Rescue Plan Act of 2021, leaving them to languish on an indefinite waitlist despite congressional directives to process applications within 120 days, the funds said in a lawsuit filed in the US District Court for the District of Columbia.

About 67 plans are currently on this waitlist, with an average time on the list of nearly 350 days and "no indication" from the PBGC about whether they'll ever be allowed to "fully apply," according to the lawsuit.

The agency also treated terminated pension plans as ineligible under the program, despite a federal appeals court rejecting this position as "contrary to law," the funds said.

Last year, the US Court of Appeals for the Second Circuit allowed the trustees of a bakery drivers union pension fund to reinstate their application for a \$130 million bailout under the rescue plan, a law authorizing the PBGC to use taxpayer dollars to rescue the most severely underfunded pension plans brokered between labor unions and employer groups. The guaranty corporation denied the request because the fund was terminated in 2016, but the Second Circuit rejected this reasoning, saying the program doesn't explicitly exclude plans terminated by mass withdrawals.

The PBGC appealed to the US Supreme Court, which in May declined to hear the dispute.

Greg Ossi, a partner at Norton Rose Fulbright, said it was "no surprise" to see the group of pension plans file suit in the wake of the Second Circuit ruling because the plaintiffs find themselves in the same position as the bakery drivers union pension fund, which had its application reinstated.

The new lawsuit, led by the trustees of a sports arena workers' pension fund, accuses the guaranty corporation of doubling down after these events and blocking terminated plans outside the Second

Circuit from seeking assistance.

“That is a brazen attempt to avoid judicial review of an issue on which the PBGC has litigated and lost, and a ploy to run out the clock,” the funds said in their complaint. They asked the court to vacate the PBGC’s “unlawful waitlist scheme” and order the agency to immediately allow them to complete their applications for financial assistance.

Wagner Law Group partner Israel Goldowitz, who previously served for 10 years as PBGC’s chief counsel, described the lawsuit as the result of “a classic case of unexpected consequences.” The agency was using its authority to effectively meter applications, he said, only for the Second Circuit ruling to expand the program’s scope and cost, placing the insurer in an untenable position.

But with participants facing benefit reductions, the pension funds were left with no choice but to sue, he said.

“I could not predict whether there will be similar lawsuits that might get consolidated with this one or similar lawsuits that get filed elsewhere. But certainly there are lots of plans, plan professionals and others in this area who will be watching this particular lawsuit very closely,” Goldowitz said.

The corporation didn’t immediately comment on the lawsuit.

Groom Law Group represents the pension funds.

The case is *Bd. of Trs., Sports Arena Emps.’ Local No. 137 Ret. Plan v. Pension Benefit Guar. Corp.*, D.D.C., No. 1:26-cv-03073, complaint 9/2/26.

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(Updates with additional reporting at paragraph seven, and then 10 through 12.)