

# THE KEN LUSBY CLERKS AND LUMBER HANDLERS PENSION PLAN

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## NOTICE OF CRITICAL STATUS

April 29, 2016

**TO: PARTICIPANTS AND BENEFICIARIES  
CONTRIBUTING EMPLOYERS  
LOCAL UNIONS  
PENSION BENEFIT GUARANTY CORPORATION  
SECRETARY OF LABOR**

This is to inform you that on March 30, 2016, the actuary for the Ken Lusby Clerks & Lumber Handlers Pension Plan (the "Plan") certified to the U.S. Department of the Treasury, and to the Board of Trustees, that the Plan is in neither critical nor endangered status (in other words, its funding status is "green") for the Plan Year beginning January 1, 2016 ("2016 Plan Year"). However, the actuary also certified that the Plan is projected to be in critical status within the next five Plan Years.

### **ELECTION OF CRITICAL STATUS**

Under Section 432(b)(4) of the Internal Revenue Code ("IRC") and Section 305(b)(4) of the Employee Retirement Income Security Act ("ERISA") – both added by the Multiemployer Pension Reform Act of 2014 – in any plan year that a multiemployer plan is projected to be in critical status for any of the succeeding five plan years (but not for the current plan year), the plan's sponsor (Board of Trustees) may elect to be in critical status for the current year.

The Board of Trustees of the Plan has elected to be in critical status for the 2016 Plan Year. Such action enables to the Board to take actions, such as the adoption of a rehabilitation plan, not otherwise available to non-critical status plans to address the Plan's funding problems sooner, rather than later. Please note that you received a similar notice this time last year, explaining that the Trustees elected to be in critical status for the 2015 Plan Year.

Federal law requires that you receive this notice.

### **REHABILITATION PLAN AND THE POSSIBILITY OF REDUCTION IN BENEFITS**

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the Plan. The law permits pension plans in the red zone to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the Board determines that 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 age. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after May 1, 2015 (after the Trustees initially elected to be in critical status). But you should know that whether or not the Plan reduces adjustable benefits in the future, effective May 1, 2015, 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.

### **ADJUSTABLE BENEFITS**

The Plan offers the following adjustable benefits that may be reduced or eliminated a part of any rehabilitation plan the pension may adopt:

- Three-year guarantee of payments connected with life annuity payment form.
- Disability Pension (if not already in pay status)
- Service Pension (or any subsidy in its calculation)
- Early Retirement Pension (or any subsidy in its calculation)
- \$1,500 Lump Sum Pre-Retirement Death Benefit
- Any subsidy in the participant and spouse joint lives calculation of the 50% or 75% Joint and Survivor Annuity.
- Any benefit increase occurring in the past five years.

### **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 Plan Year (i.e., through December 31, 2015) and a 10% surcharge is applicable for each succeeding Plan Year thereafter in which the Plan is in critical status. The obligation to pay surcharges remains in effect until such time as a contributing employer executes a collective bargaining agreement that includes provisions consistent with the terms of one of rehabilitation plan schedules.

### **WHERE TO GET MORE INFORMATION**

For more information about this Notice, you may contact the Plan administrator at the following address and telephone number:

Ms. Abigail Modelowitz  
Plan Manager  
BeneSys, Inc.  
1731 Technology Dr., Suite 570  
San Jose, CA 95110  
Telephone: (408) 588-3770

Once adopted, you have the right to receive a copy of the rehabilitation plan from the Plan.