

The logo for the Finishing Contractors Association, featuring the text "FINISHING CONTRACTORS ASSOCIATION" in a bold, blue, sans-serif font on a white rectangular background with a slight drop shadow.

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Professional Trustees and Taft Hartley Funds

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2009 FCA Annual Council

National Labor Relations Act, Taft Hartley Act and Employee Retirement Income Security Act (ERISA)

- The [National Labor Relations Act](#) (NLRA), was passed in 1935 by President Franklin D. Roosevelt, to restore a more balanced relationship between Labor unions and employers.

National Labor Relations Act, Taft Hartley Act and Employee Retirement Income Security Act (ERISA)

- The 1947 [Taft Hartley Act](#) allowed for the establishment of multi employer benefit plans that are administered jointly by Labor and management. The plans are financed in whole or part by employer contributions.

National Labor Relations Act, Taft Hartley Act and Employee Retirement Income Security Act (ERISA)

- Taft Hartley funds are regulated by the [Employment Retirement Income Act](#) of 1974 (ERISA). ERISA sets minimum standards for private industry benefit plans. ERISA requires plans to regularly provide participants with basic information about the plan.

Key Provision of the Taft Hartley Act and ERISA

- Actions by trustees be made solely in the interest of the fund's participants and beneficiaries.
- Best possible benefits within reasonable financial expectations of the Fund
- Minimize Exposure / Risk / Cost to Employers to Ensure Future Contributions

2006 Pension Protection Act

- [Key provisions of the 2006 PPA:](#)
- For multiemployer defined benefit plans, requires actuarial certification as to whether plan is in endangered or critical status (green, yellow, red)
- minimum funding standards
- Limits benefit increases and accruals for underfunded plans
- Accelerates contribution requirements for at-risk plans

Reasons For Professional Trustees

- Additional Benchmark for Comparison between different Funds and Trades
- Greater Sophistication Required in Today's World
- Greater Public Scrutiny of Taft Hartley Funds
- Difficult Volatile Markets
- Alternative Investments
- Conflict of interest by Labor and Management Trustees

Unreasonable to expect a Labor trustee can shed his responsibilities due to outside influences

- Labor Trustee
- Benefits personally effect his life - benefit recipient
- Use Trust Issues in Future Negotiations
- Tough Union Meetings Sway Prudent Decisions by Manger
- Political Re-election Concerns

Unreasonable to expect a Management trustee can shed his responsibilities due to outside influences

- [Management Trustee](#)
- Fiduciary Liability Concerns – Participant Lawsuits
- Unfunded Liability Concerns
- Delinquent Contractor
- Concerns of Speaking Against Participant Benefit Increases – Potential Recourse from Labor

Professional Trustee Requirements

- Ability to co-exist with other trustees – diplomatic approach to change
- Knowledgeable in the Benefit Field - Expertise
- Proven Track Record and Extensive Knowledge as a Trustee

- Committed to pushing for the highest level of performance from the plans professionals and administration hopefully resulting in greater performance and lower cost.

Drawbacks

- Loss of Control
- Lack of Trust from other Trustees
- Decisions may cause negotiation ramifications
- Union Participants may perceive Labor leader isn't "fighting the fight"