

1 AN ACT concerning drycleaning.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Drycleaner Environmental Response Trust  
5 Fund Act is amended by changing Sections 5, 10, 25, 30, 40,  
6 45, 50, 55, 60, 65, 75, and 80 and adding Section 26 as  
7 follows:

8 (415 ILCS 135/5)

9 Sec. 5. Definitions. As used in this Act:

10 (a) "Active drycleaning facility" means a drycleaning  
11 facility actively engaged in drycleaning operations and  
12 licensed under Section 60 of this Act.

13 (b) "Agency" means the Illinois Environmental Protection  
14 Agency.

15 (c) "Claimant" means an owner or operator of a  
16 drycleaning facility who has applied for reimbursement from  
17 the remedial account or who has submitted a claim under the  
18 insurance account with respect to a release.

19 (d) (Blank). ~~"Council"----means----the----Drycleaner~~  
20 ~~Environmental-Response-Trust-Fund--Council.~~

21 (e) "Drycleaner Environmental Response Trust Fund" or  
22 "Fund" means the fund created under Section 10 of this Act.

23 (f) "Drycleaning facility" means a facility located in  
24 this State that is or has been engaged in drycleaning  
25 operations for the general public, other than a:

26 (1) facility located on a United States military  
27 base;

28 (2) industrial laundry, commercial laundry, or  
29 linen supply facility;

30 (3) prison or other penal institution that engages  
31 in drycleaning only as part of a Correctional Industries

1 program to provide drycleaning to persons who are  
2 incarcerated in a prison or penal institution or to  
3 resident patients of a State-operated mental health  
4 facility;

5 (4) not-for-profit hospital or other health care  
6 facility; or a

7 (5) facility located or formerly located on federal  
8 or State property.

9 (g) "Drycleaning operations" means drycleaning of  
10 apparel and household fabrics for the general public, as  
11 described in Standard Industrial Classification Industry No.  
12 7215 and No. 7216 in the Standard Industrial Classification  
13 Manual (SIC) by the Technical Committee on Industrial  
14 Classification.

15 (h) "Drycleaning solvent" means a chlorine-based or  
16 hydrocarbon-based formulation or product that is used as a  
17 primary cleaning agent in drycleaning operations.

18 (i) "Emergency" or "emergency action" means a situation  
19 or an immediate response to a situation to protect public  
20 health or safety. "Emergency" or "emergency action" does not  
21 mean removal of contaminated soils, recovery of free  
22 product, or financial hardship. An "emergency" or "emergency  
23 action" would normally be expected to be directly related to  
24 a sudden event or discovery and would last until the threat  
25 to public health is mitigated.

26 (j) "Groundwater" means underground water that occurs  
27 within the saturated zone and geologic materials where the  
28 fluid pressure in the pore space is equal to or greater than  
29 the atmospheric pressure.

30 (k) "Inactive drycleaning facility" means a drycleaning  
31 facility that is not being used for drycleaning operations  
32 and is not registered under this Act.

33 (l) "Maintaining a place of business in this State" or  
34 any like term means (1) having or maintaining within this

1 State, directly or through a subsidiary, an office,  
2 distribution facility, distribution house, sales house,  
3 warehouse, or other place of business or (2) operating within  
4 this State as an agent or representative for a person or a  
5 person's subsidiary engaged in the business of selling to  
6 persons within this State, irrespective of whether the place  
7 of business or agent or other representative is located in  
8 this State permanently or temporary, or whether the person or  
9 the person's subsidiary engages in the business of selling in  
10 this State.

11 (m) "No Further Remediation Letter" means a letter  
12 provided by the Agency pursuant to Section 58.10 of Title  
13 XVII of the Environmental Protection Act.

14 (n) "Operator" means a person or entity holding a  
15 business license to operate a licensed drycleaning facility  
16 or the business operation of which the drycleaning facility  
17 is a part.

18 (o) "Owner" means (1) a person who owns or has  
19 possession or control of a drycleaning facility at the time a  
20 release is discovered, regardless of whether the facility  
21 remains in operation or (2) a parent corporation of the  
22 person under item (1) of this subdivision.

23 (p) "Parent corporation" means a business entity or  
24 other business arrangement that has elements of common  
25 ownership or control or that uses a long-term contractual  
26 arrangement with a person to avoid direct responsibility for  
27 conditions at a drycleaning facility.

28 (q) "Person" means an individual, trust, firm, joint  
29 stock company, corporation, consortium, joint venture, or  
30 other commercial entity.

31 (r) "Program year" means the period beginning on July 1  
32 and ending on the following June 30.

33 (s) "Release" means any spilling, leaking, emitting,  
34 discharging, escaping, leaching, or dispersing of drycleaning

1 solvents from a drycleaning facility to groundwater, surface  
2 water, or subsurface soils.

3 (t) "Remedial action" means activities taken to comply  
4 with Sections 58.6 and 58.7 of the Environmental Protection  
5 Act and rules adopted by the Pollution Control Board under  
6 those Sections.

7 (u) "Responsible party" means an owner, operator, or  
8 other person financially responsible for costs of remediation  
9 of a release of drycleaning solvents from a drycleaning  
10 facility.

11 (v) "Service provider" means a consultant, testing  
12 laboratory, monitoring well installer, soil boring  
13 contractor, other contractor, lender, or any other person who  
14 provides a product or service for which a claim for  
15 reimbursement has been or will be filed against the remedial  
16 account or insurance account, or a subcontractor of such a  
17 person.

18 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

19 (415 ILCS 135/10)

20 Sec. 10. Drycleaner Environmental Response Trust Fund.

21 (a) The Drycleaner Environmental Response Trust Fund is  
22 created as a special fund in the State Treasury. Moneys  
23 deposited into the Fund shall be used solely ~~for the purposes~~  
24 ~~of the Council~~ and for the other purposes as provided in this  
25 Act. The Fund shall include moneys credited to the Fund under  
26 this Act and other moneys that by law may be credited to the  
27 Fund. The State Treasurer may invest Funds deposited into the  
28 Fund at the direction of the Agency Council. Interest, income  
29 from the investments, and other income earned by the Fund  
30 shall be credited to and deposited into the Fund.

31 ~~Pursuant to appropriation, all moneys in the Drycleaner~~  
32 ~~Environmental Response Trust Fund shall be disbursed by the~~  
33 ~~Agency to the Council for the purpose of making~~

1 disbursements,--if--any,--in--accordance--with--this--Act--and--for  
 2 the--purpose--of--paying--the--ordinary--and--contingent--expenses--of  
 3 the--Council.--After--June--30,--1999,--pursuant--to--appropriation,  
 4 all--moneys--in--the--Drycleaner--Environmental--Response--Trust  
 5 Fund--may--be--used--by--the--Council--for--the--purpose--of--making  
 6 disbursements,--if--any,--in--accordance--with--this--Act--and--for  
 7 the--purpose--of--paying--the--ordinary--and--contingent--expenses--of  
 8 the--Council.

9 The Fund may be divided into different accounts with  
 10 different depositories to fulfill the purposes of the Act as  
 11 determined by the Agency Council.

12 Moneys in the Fund at the end of a State fiscal year  
 13 shall be carried forward to the next fiscal year and shall  
 14 not revert to the General Revenue Fund.

15 (b) The specific purposes of the Fund include but are  
 16 not limited to the following:

17 (1) To establish an account to fund remedial action  
 18 of drycleaning solvent releases from drycleaning  
 19 facilities as provided by Section 40.

20 (2) To establish an insurance account for insuring  
 21 environmental risks from releases from drycleaning  
 22 facilities within this State as provided by Section 45.

23 (c) The State, the General Revenue Fund, and any other  
 24 Fund of the State, other than the Drycleaner Environmental  
 25 Response Trust Fund, shall not be liable for a claim or cause  
 26 of action in connection with a drycleaning facility not owned  
 27 or operated by the State or an agency of the State. All  
 28 expenses incurred by the Fund shall be payable solely from  
 29 the Fund and no liability or obligation shall be imposed upon  
 30 the State. The State is not liable for a claim presented  
 31 against the Fund.

32 (d) The liability of the Fund is limited to the extent  
 33 of coverage provided by the account under which a claim is  
 34 submitted, subject to the terms and conditions of that

1 coverage. The liability of the Fund is further limited by  
 2 the moneys made available to the Fund, and no remedy shall be  
 3 ordered that would require the Fund to exceed its then  
 4 current funding limitations to satisfy an award or which  
 5 would restrict the availability of moneys for higher priority  
 6 sites.

7 (e) Nothing in this Act shall be construed to limit,  
 8 restrict, or affect the authority and powers of the Agency or  
 9 another State agency or statute unless the State agency or  
 10 statute is specifically referenced and the limitation is  
 11 clearly set forth in this Act.

12 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

13 (415 ILCS 135/25)

14 Sec. 25. Powers and duties of the Agency Council.

15 (a) The Agency Council shall have all of the general  
 16 powers reasonably necessary and convenient to carry out its  
 17 purposes and may perform the following functions, subject to  
 18 any express limitations contained in this Act:

19 (1) Take actions and enter into agreements  
 20 necessary to reimburse claimants for eligible remedial  
 21 action expenses, ~~assist---the--Agency--to~~ protect the  
 22 environment from releases, reduce costs associated with  
 23 remedial actions, and establish and implement an  
 24 insurance program.

25 (2) Acquire and hold personal property to be used  
 26 for the purpose of remedial action.

27 (3) Purchase, construct, improve, furnish, equip,  
 28 lease, option, sell, exchange, or otherwise dispose of  
 29 one or more improvements under the terms it determines.  
 30 The Agency Council may define "improvements" by rule for  
 31 purposes of this Act.

32 (4) Grant a lien, pledge, assignment, or other  
 33 encumbrance on one or more revenues, assets of right,

1 accounts, or funds established or received in connection  
2 with the Fund, including revenues derived from fees or  
3 taxes collected under this Act.

4 (5) Contract for the acquisition or construction of  
5 one or more improvements or parts of one or more  
6 improvements or for the leasing, subleasing, sale, or  
7 other disposition of one or more improvements ~~in-a-manner~~  
8 ~~the-Council-determines~~.

9 (6) ~~Cooperate-with-the-Agency-in-the-implementation~~  
10 ~~and--administration--of--this-Act-to-minimize-unnecessary~~  
11 ~~duplication-of-effort,--reporting,--or--paperwork--and--to~~  
12 Maximize environmental protection within the funding  
13 limits of this Act.

14 (7) Except as otherwise provided by law, inspect  
15 any document in the possession of an owner, operator,  
16 service provider, or any other person if the document is  
17 relevant to a claim for reimbursement under this Section  
18 or may inspect a drycleaning facility for which a claim  
19 for benefits under this Act has been submitted.

20 (b) The Agency Council shall pre-approve, and the  
21 contracting parties shall seek pre-approval for, a contract  
22 entered into under this Act if the cost of the contract  
23 exceeds \$75,000. The Agency Council or its designee shall  
24 review and approve or disapprove all contracts entered into  
25 under this Act. However, review by the Agency Council or its  
26 designee shall not be required when an emergency situation  
27 exists. All contracts entered into by the Agency under this  
28 Act Council shall be awarded on a competitive basis to the  
29 maximum extent practical. In those situations where it is  
30 determined that bidding is not practical, the basis for the  
31 determination of impracticability shall be documented by the  
32 Agency Council or its designee.

33 (c) The Agency Council may prioritize the expenditure of  
34 funds from the remedial action account whenever it determines

1 that there are not sufficient funds to settle all current  
2 claims. In prioritizing, the Agency Council may consider the  
3 following:

4 (1) the degree to which human health is affected by  
5 the exposure posed by the release;

6 (2) the reduction of risk to human health derived  
7 from remedial action compared to the cost of the remedial  
8 action;

9 (3) the present and planned uses of the impacted  
10 property; and

11 (4) other factors as determined by the Agency  
12 Council.

13 (Source: P.A. 90-502, eff. 8-19-97.)

14 (415 ILCS 135/26 new)

15 Sec. 26. Transfer provisions.

16 (a) On the effective date of this amendatory Act of the  
17 92nd General Assembly, all of the powers, duties, rights, and  
18 obligations of the Drycleaner Environmental Response Trust  
19 Fund Council are transferred to the Environmental Protection  
20 Agency.

21 Within 10 days after the effective date of this  
22 amendatory Act, the Council shall transfer all of its  
23 property and records to the Agency, and upon completing that  
24 transfer the Council is abolished.

25 The Agency is the successor agency of the Council for  
26 purposes of the Successor Agency Act.

27 (b) All rules, standards, and procedures adopted by the  
28 Council that are in effect on the effective date of this  
29 amendatory Act shall be deemed to be the rules, standards,  
30 and procedures of the Agency with respect to the  
31 administration of this Act, until changed or rescinded by the  
32 Agency.

33 (c) Licenses issued by the Council that are in effect on



1 the effective date of this amendatory Act of the 92nd General  
2 Assembly shall continue in effect until their scheduled  
3 expiration dates and shall be deemed to be licenses issued by  
4 the Agency for the purposes of this Act.

5 (d) Amounts appropriated to the Council for the purposes  
6 of this Act may be expended by the Agency beginning on the  
7 effective date of this amendatory Act.

8 (e) The Agency is the successor of the Council for the  
9 purposes of any legal proceeding or disciplinary action that  
10 is pending on the effective date of this amendatory Act, and  
11 any such proceeding or action may continue without refiling  
12 or formal substitution of parties.

13 (415 ILCS 135/30)

14 Sec. 30. Independent contractors ~~retained-by-Council~~.

15 (a) A contract entered into to retain a person to act as  
16 the administrator of the Fund shall be subject to public bid.  
17 The Agency Council may enter into a contract or an agreement  
18 authorized under this Act with a person, ~~the Agency~~, the  
19 Department of Revenue, other departments, agencies, or  
20 governmental subdivisions of this State, another state, or  
21 the United States, in connection with its administration and  
22 implementation of this Act.

23 (b) The Agency Council may reimburse a public or private  
24 contractor retained pursuant to this Section for expenses  
25 incurred in the execution of a contract or agreement.  
26 Reimbursable expenses include the costs of performing duties  
27 or powers specifically delegated by the Agency Council.

28 (Source: P.A. 90-502, eff. 8-19-97.)

29 (415 ILCS 135/40)

30 Sec. 40. Remedial action account.

31 (a) The remedial action account is established to  
32 provide reimbursement to eligible claimants for drycleaning

1 solvent investigation, remedial action planning, and remedial  
2 action activities for existing drycleaning solvent  
3 contamination discovered at their drycleaning facilities.

4 (b) The following persons are eligible for reimbursement  
5 from the remedial action account:

6 (1) In the case of claimant who is the owner or  
7 operator of an active drycleaning facility licensed by  
8 ~~the Council~~ under this Act at the time of application for  
9 remedial action benefits afforded under the Fund, the  
10 claimant is only eligible for reimbursement of remedial  
11 action costs incurred in connection with a release from  
12 that drycleaning facility, subject to any other  
13 limitations under this Act.

14 (2) In the case of a claimant who is the owner of  
15 an inactive drycleaning facility and was the owner or  
16 operator of the drycleaning facility when it was an  
17 active drycleaning facility, the claimant is only  
18 eligible for reimbursement of remedial action costs  
19 incurred in connection with a release from the  
20 drycleaning facility, subject to any other limitations  
21 under this Act.

22 (c) An eligible claimant requesting reimbursement from  
23 the remedial action account shall meet all of the following:

24 (1) The claimant demonstrates that the source of  
25 the release is from the claimant's drycleaning facility.

26 (2) At the time the release was discovered by the  
27 claimant, the claimant and the drycleaning facility were  
28 in compliance with the Agency reporting and technical  
29 operating requirements.

30 (3) The claimant reported the release in a timely  
31 manner to the Agency in accordance with State law.

32 (4) The claimant applying for reimbursement has not  
33 filed for bankruptcy on or after the date of his or her  
34 discovery of the release.

1           (5) If the claimant is the owner or operator of an  
2 active drycleaning facility, the claimant has provided to  
3 the Agency Council proof of implementation and  
4 maintenance of the following pollution prevention  
5 measures:

6           (A) That all drycleaning solvent wastes  
7 generated at a drycleaning facility be managed in  
8 accordance with applicable State waste management  
9 laws and rules.

10          (B) A prohibition on the discharge of  
11 wastewater from drycleaning machines or of  
12 drycleaning solvent from drycleaning operations to a  
13 sanitary sewer or septic tank or to the surface or  
14 in groundwater.

15          (C) That every drycleaning facility:

16           (I) install a containment dike or other  
17 containment structure around each machine or  
18 item of equipment or the entire drycleaning  
19 area in which any drycleaning solvent is  
20 utilized, which shall be capable of containing  
21 any leak, spill, or release of drycleaning  
22 solvent from that machine, item, or area; and

23           (II) seal or otherwise render impervious  
24 those portions of diked floor surfaces on which  
25 a drycleaning solvent may leak, spill, or  
26 otherwise be released.

27          (D) A requirement that all drycleaning solvent  
28 shall be delivered to drycleaning facilities by  
29 means of closed, direct-coupled delivery systems.

30          (6) An active drycleaning facility has maintained  
31 continuous financial assurance for environmental  
32 liability coverage in the amount of at least \$500,000 at  
33 least since the date of award of benefits under this  
34 Section or July 1, 2000, whichever is earlier.

1           (7) The release was discovered on or after July 1,  
2           1997 and before July 1, 2004.

3           (d) A claimant shall submit a completed application form  
4           provided by the Agency Council. The application shall  
5           contain documentation of activities, plans, and expenditures  
6           associated with the eligible costs incurred in response to a  
7           release of drycleaning solvent from a drycleaning facility.  
8           Application for remedial action account benefits must be  
9           submitted to the Agency Council on or before June 30, 2004.

10          (e) Claimants shall be subject to the following  
11          deductible requirements, unless modified pursuant to the  
12          Agency's Council's authority under Section 75:

13                 (1) An eligible claimant submitting a claim for an  
14                 active drycleaning facility is responsible for the first  
15                 \$5,000 of eligible investigation costs and for the first  
16                 \$10,000 of eligible remedial action costs incurred in  
17                 connection with the release from the drycleaning facility  
18                 and is only eligible for reimbursement for costs that  
19                 exceed those amounts, subject to any other limitations of  
20                 this Act.

21                 (2) An eligible claimant submitting a claim for an  
22                 inactive drycleaning facility is responsible for the  
23                 first \$10,000 of eligible investigation costs and for the  
24                 first \$10,000 of eligible remedial action costs incurred  
25                 in connection with the release from that drycleaning  
26                 facility, and is only eligible for reimbursement for  
27                 costs that exceed those amounts, subject to any other  
28                 limitations of this Act.

29          (f) Claimants are subject to the following limitations  
30          on reimbursement:

31                 (1) Subsequent to meeting the deductible  
32                 requirements of subsection (e), and pursuant to the  
33                 requirements of Section 75, reimbursement shall not  
34                 exceed:

1 (A) \$160,000 per active drycleaning facility  
2 for which an eligible claim is submitted during the  
3 program year beginning July 1, 1999;

4 (B) \$150,000 per active drycleaning facility  
5 for which an eligible claim is submitted during the  
6 program year beginning July 1, 2000;

7 (C) \$140,000 per active drycleaning facility  
8 for which an eligible claim is submitted during the  
9 program year beginning July 1, 2001;

10 (D) \$130,000 per active drycleaning facility  
11 for which an eligible claim is submitted during the  
12 program year beginning July 1, 2002;

13 (E) \$120,000 per active drycleaning facility  
14 for which an eligible claim is submitted during the  
15 program year beginning July 1, 2003; or

16 (F) \$50,000 per inactive drycleaning facility.

17 (2) A contract in which one of the parties to the  
18 contract is a claimant, for goods or services that may be  
19 payable or reimbursable from the Agency Council, is void  
20 and unenforceable unless and until the Agency Council has  
21 found that the contract terms are within the range of  
22 usual and customary rates for similar or equivalent goods  
23 or services within this State and has found that the  
24 goods or services are necessary for the claimant to  
25 comply with Agency Council standards or other applicable  
26 regulatory standards.

27 (3) A claimant may appoint the Agency Council as an  
28 agent for the purposes of negotiating contracts with  
29 suppliers of goods or services reimbursable by the Fund.  
30 The Agency Council may select another contractor for  
31 goods or services other than the one offered by the  
32 claimant if the scope of the proposed work or actual work  
33 of the claimant's offered contractor does not reflect the  
34 quality of workmanship required or if the costs are

1 determined to be excessive, as determined by the Agency  
2 Council.

3 (4) The Agency Council may require a claimant to  
4 obtain and submit 3 bids and may require specific terms  
5 and conditions in a contract subject to approval.

6 (5) The Agency Council may enter into a contract or  
7 an exclusive contract with the supplier of goods or  
8 services required by a claimant or class of claimants, in  
9 connection with an expense reimbursable from the Fund,  
10 for a specified good or service at a gross maximum price  
11 or fixed rate, and may limit reimbursement accordingly.

12 (6) Unless emergency conditions exist, a service  
13 provider shall obtain the Agency's Council's approval of  
14 the budget for the remediation work before commencing the  
15 work. No expense incurred that is above the budgeted  
16 amount shall be paid unless the Agency Council approves  
17 the expense prior to its being incurred. All invoices  
18 and bills relating to the remediation work shall be  
19 submitted with appropriate documentation, as deemed  
20 necessary by the Agency Council, not later than 30 days  
21 after the work has been performed.

22 (7) Neither the Agency Council nor an eligible  
23 claimant is responsible for payment for costs incurred  
24 that have not been previously approved by the Agency  
25 Council, unless an emergency exists.

26 (8) The Agency Council may determine the usual and  
27 customary costs of each item for which reimbursement may  
28 be awarded under this Section. The Agency Council may  
29 revise the usual and customary costs from time to time as  
30 necessary, but costs submitted for reimbursement shall be  
31 subject to the rates in effect at the time the costs were  
32 incurred.

33 (9) If a claimant has pollution liability insurance  
34 coverage other than coverage provided by the insurance

1 account under this Act, that coverage shall be primary.  
2 Reimbursement from the remedial account shall be limited  
3 to the deductible amounts under the primary coverage and  
4 the amount that exceeds the policy limits of the primary  
5 coverage, subject to the deductible amounts of this Act.  
6 If there is a dispute between the claimant and the  
7 primary insurance provider, reimbursement from the  
8 remedial action account may be made to the claimant after  
9 the claimant assigns all of his or her interests in the  
10 insurance coverage to the Agency Council.

11 (g) The source of funds for the remedial action account  
12 shall be moneys allocated to the account by the Agency  
13 Council according to the Fund budget approved by the Agency  
14 Council.

15 (h) A drycleaning facility will be classified as active  
16 or inactive for purposes of determining benefits under this  
17 Section based on the status of the facility on the date a  
18 claim is filed.

19 (i) Eligible claimants shall conduct remedial action in  
20 accordance with the Site Remediation Program under the  
21 Environmental Protection Act and Part 740 of Title 35 of the  
22 Illinois Administrative Code and the Tiered Approach to  
23 Cleanup Objectives under Part 742 of Title 35 of the Illinois  
24 Administrative Code.

25 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

26 (415 ILCS 135/45)

27 Sec. 45. Insurance account.

28 (a) The insurance account shall offer financial  
29 assurance for a qualified owner or operator of a drycleaning  
30 facility under the terms and conditions provided for under  
31 this Section. Coverage may be provided to either the owner or  
32 the operator of a drycleaning facility. The Agency Council is  
33 not required to resolve whether the owner or operator, or

1 both, are responsible for a release under the terms of an  
2 agreement between the owner and operator.

3 (b) The source of funds for the insurance account shall  
4 be as follows:

5 (1) Moneys appropriated to the Agency Council or  
6 moneys allocated to the insurance account by the Agency  
7 Council according to the Fund budget approved by the  
8 Agency Council.

9 (2) Moneys collected as an insurance premium,  
10 including service fees, if any.

11 (3) Investment income attributed to the insurance  
12 account by the Agency Council.

13 (c) An owner or operator may purchase coverage of up to  
14 \$500,000 per drycleaning facility subject to the terms and  
15 conditions under this Section and those adopted by the Agency  
16 Council. Coverage shall be limited to remedial action costs  
17 associated with soil and groundwater contamination resulting  
18 from a release of drycleaning solvent at an insured  
19 drycleaning facility, including third-party liability for  
20 soil and groundwater contamination. Coverage is not provided  
21 for a release that occurred before the date of coverage.

22 (d) An owner or operator, subject to underwriting  
23 requirements and terms and conditions deemed necessary and  
24 convenient by the Agency Council, may purchase insurance  
25 coverage from the insurance account provided that the  
26 drycleaning facility to be insured meets the following  
27 conditions:

28 (1) a site investigation designed to identify soil  
29 and groundwater contamination resulting from the release  
30 of a drycleaning solvent has been completed. The Agency  
31 Council shall determine if the site investigation is  
32 adequate. This investigation must be completed by June  
33 30, 2004. For drycleaning facilities that become active  
34 after June 30, 2004, the site investigation must be



1 completed prior to issuance of insurance coverage; and

2 (2) the drycleaning facility is participating in  
3 and meets all requirements of a drycleaning compliance  
4 program approved by the Agency Council.

5 (e) The annual premium for insurance coverage shall be:

6 (1) For the year July 1, 1999 through June 30,  
7 2000, \$250 per drycleaning facility.

8 (2) For the year July 1, 2000 through June 30,  
9 2001, \$375 per drycleaning facility.

10 (3) For the year July 1, 2001 through June 30,  
11 2002, \$500 per drycleaning facility.

12 (4) For the year July 1, 2002 through June 30,  
13 2003, \$625 per drycleaning facility.

14 (5) For subsequent years, an owner or operator  
15 applying for coverage shall pay an annual  
16 actuarially-sound insurance premium for coverage by the  
17 insurance account. The Agency Council may approve Fund  
18 coverage through the payment of a premium established on  
19 an actuarially-sound basis, taking into consideration the  
20 risk to the insurance account presented by the insured.  
21 Risk factor adjustments utilized to determine  
22 actuarially-sound insurance premiums should reflect the  
23 range of risk presented by the variety of drycleaning  
24 systems, monitoring systems, drycleaning volume, risk  
25 management practices, and other factors as determined by  
26 the Agency Council. As used in this item, "actuarially  
27 sound" is not limited to Fund premium revenue equaling or  
28 exceeding Fund expenditures for the general drycleaning  
29 facility population. Actuarially-determined premiums  
30 shall be published at least 180 days prior to the  
31 premiums becoming effective.

32 (f) If coverage is purchased for any part of a year, the  
33 purchaser shall pay the full annual premium. The insurance  
34 premium is fully earned upon issuance of the insurance

1 policy.

2 (g) The insurance coverage shall be provided with a  
3 \$10,000 deductible policy.

4 (h) A future repeal of this Section shall not terminate  
5 the obligations under this Section or authority necessary to  
6 administer the obligations until the obligations are  
7 satisfied, including but not limited to the payment of claims  
8 filed prior to the effective date of any future repeal  
9 against the insurance account until moneys in the account are  
10 exhausted. Upon exhaustion of the moneys in the account, any  
11 remaining claims shall be invalid. If moneys remain in the  
12 account following satisfaction of the obligations under this  
13 Section, the remaining moneys and moneys due the account  
14 shall be used to assist current insureds to obtain a viable  
15 insuring mechanism as determined by the Agency Council after  
16 public notice and opportunity for comment.

17 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

18 (415 ILCS 135/50)

19 Sec. 50. Cost recovery; enforcement.

20 (a) The Agency Council may seek recovery from a  
21 potentially responsible party liable for a release that is  
22 the subject of a remedial action and for which the Fund has  
23 expended moneys for remedial action. The amount of recovery  
24 sought by the Agency Council shall be equal to all moneys  
25 expended by the Fund for and in connection with the  
26 remediation, including but not limited to reasonable  
27 attorneys fees and costs of litigation expended by the Fund  
28 in connection with the release.

29 (b) Except as provided in subsections (c) and (d):

30 (1) The Agency Council shall not seek recovery for  
31 expenses in connection with remedial action for a release  
32 from a claimant eligible for reimbursement except for any  
33 unpaid portion of the deductible.

1           (2) A claimant's liability for a release for which  
2 coverage is admitted under the insurance account shall  
3 not exceed the amount of the deductible, subject to the  
4 limits of insurance coverage.

5           (c) Notwithstanding subsection (b), the liability of a  
6 claimant to the Fund shall be the total costs of remedial  
7 action incurred by the Fund, as specified in subsection (a),  
8 if the claimant has not complied with the Environmental  
9 Protection Act and its rules or with this Act and its rules.

10          (d) Notwithstanding subsection (b), the liability of a  
11 claimant to the Fund shall be the total costs of remedial  
12 action incurred by the Fund, as specified in subsection (a),  
13 if the claimant received reimbursement from the Fund through  
14 misrepresentation or fraud, and the claimant shall be liable  
15 for the amount of the reimbursement.

16          (e) Upon reimbursement by the Fund for remedial action  
17 under this Act, the rights of the claimant to recover payment  
18 from a potentially responsible party are assumed by the  
19 Agency Council to the extent the remedial action was paid by  
20 the Fund. A claimant is precluded from receiving double  
21 compensation for the same injury. A claimant may elect to  
22 permit the Agency Council to pursue the claimant's cause of  
23 action for an injury not compensated by the Fund against a  
24 potentially responsible party, provided the Attorney General  
25 or his or her designee determines the representation would  
26 not be a conflict of interest.

27          (f) This Section does not preclude, limit, or in any way  
28 affect any of the provisions of or causes of action pursuant  
29 to Section 22.2 of the Environmental Protection Act.

30 (Source: P.A. 90-502, eff. 8-19-97.)

31 (415 ILCS 135/55)

32 Sec. 55. Limitation on actions; admissions.

33 (a) An award or reimbursement made by the Agency Council

1 under this Act shall be the claimant's exclusive method for  
2 the recovery of the costs of drycleaning facility  
3 remediation.

4 (b) If a person conducts a remedial action activity for  
5 a release at a drycleaning facility site, whether or not the  
6 person files a claim under this Act, the claim and remedial  
7 action activity conducted are not evidence of liability or  
8 an admission of liability for any potential or actual  
9 environmental pollution or damage.

10 (Source: P.A. 90-502, eff. 8-19-97.)

11 (415 ILCS 135/60)

12 (Section scheduled to be repealed on January 1, 2010)

13 Sec. 60. Drycleaning facility license.

14 (a) On and after January 1, 1998, no person shall  
15 operate a drycleaning facility in this State without a  
16 license issued by the Agency Council.

17 (b) The Agency Council shall issue an initial or renewal  
18 license to a drycleaning facility on submission by an  
19 applicant of a completed form prescribed by the Agency  
20 Council and proof of payment of the required fee to the  
21 Department of Revenue.

22 (c) The annual fees for licensure are as follows:

23 (1) \$500 for a facility that purchases 140 gallons  
24 or less of chlorine-based drycleaning solvents annually  
25 or 1400 gallons or less of hydrocarbon-based drycleaning  
26 solvents annually.

27 (2) \$1,000 for a facility that purchases more than  
28 140 gallons but less than 360 gallons of chlorine-based  
29 drycleaning solvents annually or more than 1400 gallons  
30 but less than 3600 gallons of hydrocarbon-based  
31 drycleaning solvents annually.

32 (3) \$1,500 for a facility that purchases 360  
33 gallons or more of chlorine-based drycleaning solvents

1           annually or 3600 gallons or more of hydrocarbon-based  
2           drycleaning solvents annually.

3           For purpose of this subsection, the quantity of  
4           drycleaning solvents purchased annually shall be determined  
5           as follows:

6                   (1) in the case of an initial applicant, the  
7                   quantity of drycleaning solvents that the applicant  
8                   estimates will be used during his or her initial license  
9                   year. A fee assessed under this subdivision is subject  
10                  to audited adjustment for that year; or

11                   (2) in the case of a renewal applicant, the  
12                   quantity of drycleaning solvents actually used in the  
13                   preceding license year.

14           The Agency Council may adjust licensing fees annually  
15           based on the published Consumer Price Index - All Urban  
16           Consumers ("CPI-U") or as otherwise determined by the Agency  
17           Council.

18           (d) A license issued under this Section shall expire one  
19           year after the date of issuance and may be renewed on  
20           reapplication to the Agency Council and submission of proof  
21           of payment of the appropriate fee to the Department of  
22           Revenue in accordance with subsections (c) and (e). At least  
23           30 days before payment of a renewal licensing fee is due, the  
24           Agency Council shall attempt to:

25                   (1) notify the operator of each licensed  
26                   drycleaning facility concerning the requirements of this  
27                   Section; and

28                   (2) submit a license fee payment form to the  
29                   licensed operator of each drycleaning facility.

30           (e) An operator of a drycleaning facility shall submit  
31           the appropriate application form provided by the Agency  
32           Council with the license fee in the form of cash or  
33           guaranteed remittance to the Department of Revenue. The  
34           license fee payment form and the actual license fee payment

1 shall be administered by the Department of Revenue under  
2 rules adopted by that Department.

3 (f) The Department of Revenue shall issue a proof of  
4 payment receipt to each operator of a drycleaning facility  
5 who has paid the appropriate fee in cash or by guaranteed  
6 remittance. However, the Department of Revenue shall not  
7 issue a proof of payment receipt to a drycleaning facility  
8 that is liable to the Department of Revenue for a tax imposed  
9 under this Act. The original receipt shall be presented to  
10 the Agency Council by the operator of a drycleaning facility.

11 (g) Until the effective date of this amendatory Act of  
12 the 92nd General Assembly, an operator of a dry cleaning  
13 facility who is required to pay a license fee under this Act  
14 and fails to pay the license fee when the fee is due shall be  
15 assessed a penalty of \$5 for each day after the license fee  
16 is due and until the license fee is paid. Beginning on the  
17 effective date of this amendatory Act, the Department of  
18 Revenue shall no longer collect penalties under this  
19 subsection, including penalties accruing before that date,  
20 but penalties already collected shall not be refunded. The  
21 ~~penalty shall be effective for license fees due on or after~~  
22 ~~July 17, 1999.~~

23 (h) The Agency Council and the Department of Revenue may  
24 adopt rules as necessary to administer the licensing  
25 requirements of this Act.

26 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

27 (415 ILCS 135/65)

28 (Section scheduled to be repealed on January 1, 2010)

29 Sec. 65. Drycleaning solvent tax.

30 (a) On and after January 1, 1998, a tax is imposed upon  
31 the use of drycleaning solvent by a person engaged in the  
32 business of operating a drycleaning facility in this State at  
33 the rate of \$3.50 per gallon of perchloroethylene or other

1 chlorinated drycleaning solvents used in drycleaning  
2 operations and \$0.35 per gallon of petroleum-based  
3 drycleaning solvent. The Agency Council shall determine by  
4 rule which products are chlorine-based solvents and which  
5 products are petroleum-based solvents. All drycleaning  
6 solvents shall be considered chlorinated solvents unless the  
7 Agency Council determines that the solvents are  
8 petroleum-based drycleaning solvents subject to the lower  
9 tax.

10 (b) The tax imposed by this Act shall be collected from  
11 the purchaser at the time of sale by a seller of drycleaning  
12 solvents maintaining a place of business in this State and  
13 shall be remitted to the Department of Revenue under the  
14 provisions of this Act.

15 (c) The tax imposed by this Act that is not collected by  
16 a seller of drycleaning solvents shall be paid directly to  
17 the Department of Revenue by the purchaser or end user who is  
18 subject to the tax imposed by this Act.

19 (d) No tax shall be imposed upon the use of drycleaning  
20 solvent if the drycleaning solvent will not be used in a  
21 drycleaning facility or if a floor stock tax has been imposed  
22 and paid on the drycleaning solvent. Prior to the purchase  
23 of the solvent, the purchaser shall provide a written and  
24 signed certificate to the drycleaning solvent seller stating:

- 25 (1) the name and address of the purchaser;
- 26 (2) the purchaser's signature and date of signing;
- 27 and
- 28 (3) one of the following:
  - 29 (A) that the drycleaning solvent will not be
  - 30 used in a drycleaning facility; or
  - 31 (B) that a floor stock tax has been imposed
  - 32 and paid on the drycleaning solvent.

33 A person who provides a false certification under this  
34 subsection shall be liable for a civil penalty not to exceed

1 \$500 for a first violation and a civil penalty not to exceed  
2 \$5,000 for a second or subsequent violation.

3 (e) On January 1, 1998, there is imposed on each  
4 operator of a drycleaning facility a tax on drycleaning  
5 solvent held by the operator on that date for use in a  
6 drycleaning facility. The tax imposed shall be the tax that  
7 would have been imposed under subsection (a) if the  
8 drycleaning solvent held by the operator on that date had  
9 been purchased by the operator during the first year of this  
10 Act.

11 (f) On or before the 25th day of the 1st month following  
12 the end of the calendar quarter, a seller of drycleaning  
13 solvents who has collected a tax pursuant to this Section  
14 during the previous calendar quarter, or a purchaser or end  
15 user of drycleaning solvents required under subsection (c) to  
16 submit the tax directly to the Department, shall file a  
17 return with the Department of Revenue. The return shall be  
18 filed on a form prescribed by the Department of Revenue and  
19 shall contain information that the Department of Revenue  
20 reasonably requires. Each seller of drycleaning solvent  
21 maintaining a place of business in this State who is required  
22 or authorized to collect the tax imposed by this Act shall  
23 pay to the Department the amount of the tax at the time when  
24 he or she is required to file his or her return for the  
25 period during which the tax was collected. Purchasers or end  
26 users remitting the tax directly to the Department under  
27 subsection (c) shall file a return with the Department of  
28 Revenue and pay the tax so incurred by the purchaser or end  
29 user during the preceding calendar quarter.

30 (g) The tax on drycleaning solvents used in drycleaning  
31 facilities and the floor stock tax shall be administered by  
32 Department of Revenue under rules adopted by that Department.

33 (h) On and after January 1, 1998, no person shall  
34 knowingly sell or transfer drycleaning solvent to an operator



1 of a drycleaning facility that is not licensed by the Agency  
2 Council under Section 60. A person who violates this  
3 subsection is liable for a civil penalty not to exceed \$500  
4 for a first violation and a civil penalty not to exceed  
5 \$5,000 for a second or subsequent violation.

6 (i) The Department of Revenue may adopt rules as  
7 necessary to implement this Section.

8 (Source: P.A. 90-502, eff. 8-19-97.)

9 (415 ILCS 135/75)

10 Sec. 75. Adjustment of fees and taxes. Beginning January  
11 1, 2000, and annually after that date, the Agency Council  
12 shall adjust the copayment obligation of subsection (e) of  
13 Section 40, the drycleaning solvent taxes of Section 65, the  
14 license fees of Section 60, or any combination of adjustment  
15 of each, after notice and opportunity for public comment, in  
16 a manner determined necessary and appropriate to ensure  
17 viability of the Fund. Viability of the Fund shall consider  
18 the settlement of all current claims subject to  
19 prioritization of benefits under subsection (c) of Section  
20 25, consistent with the purposes of this Act.

21 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

22 (415 ILCS 135/80)

23 Sec. 80. Audits and reports.

24 (a) The accounts, books, and other financial records of  
25 the Agency Council, including but not limited to its  
26 receipts, disbursements, contracts, and other matters  
27 relating to its finance, operation, and affairs, shall be  
28 examined and audited annually by the Auditor General in  
29 accordance with the audit standards under the Illinois State  
30 Auditing Act. This audit shall be provided to the Agency for  
31 review.

32 (b) Upon request by the Auditor General, the Agency

1 Council shall retain a firm of certified public accountants  
2 to examine and audit the Agency Council as described in  
3 subsection (a) on behalf of the Auditor General.

4 (c) The accounts, books, and other financial records of  
5 the Agency Council shall be maintained in accordance with the  
6 State Records Act and accepted accounting practices  
7 established by the State.

8 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

9 (415 ILCS 135/15 rep.)

10 (415 ILCS 135/20 rep.)

11 Section 90. The Drycleaner Environmental Response Trust  
12 Fund Act is amended by repealing Sections 15 and 20.

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.