

1 AMENDMENT TO SENATE BILL 1069

2 AMENDMENT NO. _____. Amend Senate Bill 1069, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Drycleaner Environmental Response Trust
6 Fund Act is amended by changing Sections 15, 20, 25, 40, 45,
7 60, 65, 70, 75, and 85 as follows:

8 (415 ILCS 135/15)

9 Sec. 15. Creation of Council.

10 (a) The Drycleaner Environmental Response Trust Fund
11 Council is established and shall consist of the following
12 voting members to be appointed by the Governor with the
13 advice and consent of the Senate:

14 (1) Five Three members who own or operate a
15 drycleaning facility. ~~Two--of--these--members--must--be~~
16 ~~members-of--the--Illinois--State--Fabricare--Association.~~
17 These members shall serve 3 year terms, except that of
18 the initial members appointed, one shall be appointed for
19 a term of one year, one for a term of 2 years, and one
20 for a term of 3 years.

21 (2) One member who represents wholesale
22 distributors of drycleaning solvents. This member shall

1 serve for a term of 3 years.

2 (3) One member who represents the drycleaning
3 equipment manufacturers and vendor community. This
4 member shall serve for a term of 3 years.

5 (4) Two members with experience in financial
6 markets or the insurance industry. These members shall
7 serve 3-year terms, except that of the initial
8 appointments, one shall be appointed for a term of 2
9 years, and one for a term of 3 years.

10 Each member shall have experience, knowledge, and
11 expertise relating to the subject matter of this Act.

12 A member of the Illinois Environmental Protection Agency
13 shall be allowed to attend all Council meetings, but shall
14 not have a vote on any matters before the Council.

15 Members of the Council serving on the effective date of
16 this amendatory Act of the 92nd General Assembly shall serve
17 the remainder of their terms, notwithstanding that the Senate
18 has not consented to their appointment.

19 (b) The Governor may remove any member of the Council
20 for incompetency, neglect of duty, or malfeasance in office
21 after service on him or her of a copy of the written charges
22 against him or her and after an opportunity to be publicly
23 heard in person or by counsel in his or her own defense no
24 earlier than 10 days after the Governor has provided notice
25 of the opportunity to the Council member. Evidence of
26 incompetency, neglect of duty, or malfeasance in office may
27 be provided to the Governor by the Agency or the Auditor
28 General following the annual audit described in Section 80.
29 The Governor shall promptly appoint a person to fill any
30 vacancy on the Council for the unexpired term.

31 (c) Members of the Council are entitled to receive
32 reimbursement of actual expenses incurred in the discharge of
33 their duties within the limit of funds appropriated to the
34 Council or made available to the Fund. The Governor shall

1 appoint a chairperson of the Council from among the members
2 of the Council.

3 (d) The Attorney General's office or its designee shall
4 provide legal counsel to the Council.

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

6 (415 ILCS 135/20)

7 Sec. 20. Council rules.

8 (a) The Council may adopt rules in accordance with the
9 emergency rulemaking provisions of Section 5-45 of the
10 Illinois Administrative Procedure Act for one year after the
11 effective date of this Act. Thereafter, the Council shall
12 conduct general rulemaking as provided under the Illinois
13 Administrative Procedure Act.

14 (b) The Council shall adopt rules regarding its practice
15 and procedures for investigating and settling claims made
16 against the Fund, determining reimbursement guidelines,
17 coordinating with the Agency, and otherwise implementing and
18 administering the Fund under this Act.

19 (c) The Council shall adopt rules regarding its practice
20 and procedures to develop underwriting standards, establish
21 insurance account coverage and risk factors, settle claims
22 made against the insurance account of the Fund, determine
23 appropriate deductibles or retentions in coverages or
24 benefits offered under the insurance account of the Fund,
25 determine reimbursement guidelines, and otherwise implement
26 and administer the insurance account under this Act.

27 (d) The Council shall adopt rules necessary for the
28 implementation and collection of insurance account premiums
29 prior to offering insurance to an owner or operator of a
30 drycleaning facility or other person.

31 (e) The Council shall adopt rules prescribing
32 requirements for the retention of records by an owner or
33 operator and the periods for which he or she must retain

1 those records.

2 (f) The Council shall adopt rules describing the manner
3 in which all disbursed moneys received from the Agency shall
4 be deposited with a bank or savings and loan association to
5 be approved by the Council. For purposes of this subsection,
6 the Council shall be considered a public agency and,
7 therefore, no bank or savings and loan association shall
8 receive public funds from the Council, and the Council shall
9 not make any investments, unless in accordance with the
10 Public Funds Investment Act.

11 (g) All final Council decisions regarding the Fund or
12 any reimbursement from the Fund and any decision concerning
13 the classification of drycleaning solvents pursuant to
14 subsection (a) of Section 65 of this Act shall be subject to
15 appeal by the affected parties. The Council shall determine
16 by rule persons who have standing to appeal final Council
17 decisions. All appeals of final Council decisions shall be
18 presented to and reviewed by the Council's administrative
19 hearing officer. An appeal of the administrative hearing
20 officer's decision will be subject to judicial review in
21 accordance with the Administrative Review Law.

22 The Council shall adopt rules relating to appeal
23 procedures that shall require the Council to deliver notice
24 of appeal to the affected parties within 30 days of receipt
25 of notice, require that the hearing be held within 180 days
26 of the filing of the petition unless good cause is shown for
27 the delay, and require that a final decision be issued no
28 later than 120 days following the close of the hearing. The
29 time restrictions in this subsection may be waived by mutual
30 agreement of the parties.

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

32 (415 ILCS 135/25)

33 Sec. 25. Powers and duties of the Council; Agency duties.

1 (a) The Council shall have all of the general powers
2 reasonably necessary and convenient to carry out its purposes
3 and may perform the following functions, subject to any
4 express limitations contained in this Act:

5 (1) Take actions and enter into agreements
6 necessary to reimburse claimants for eligible remedial
7 action expenses, assist the Agency to protect the
8 environment from releases, reduce costs associated with
9 remedial actions, and establish and implement an
10 insurance program.

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

13 (3) Purchase, construct, improve, furnish, equip,
14 lease, option, sell, exchange, or otherwise dispose of
15 one or more improvements under the terms it determines.
16 The Council may define "improvements" by rule for
17 purposes of this Act.

18 (4) Grant a lien, pledge, assignment, or other
19 encumbrance on one or more revenues, assets of right,
20 accounts, or funds established or received in connection
21 with the Fund, including revenues derived from fees or
22 taxes collected under this Act.

23 (5) Contract for the acquisition or construction of
24 one or more improvements or parts of one or more
25 improvements or for the leasing, subleasing, sale, or
26 other disposition of one or more improvements in a manner
27 the Council determines.

28 (6) Cooperate with the Agency in the implementation
29 and administration of this Act to minimize unnecessary
30 duplication of effort, reporting, or paperwork and to
31 maximize environmental protection within the funding
32 limits of this Act.

33 (7) Except as otherwise provided by law, inspect
34 any document in the possession of an owner, operator,

1 service provider, or any other person if the document is
2 relevant to a claim for reimbursement under this Section
3 or may inspect a drycleaning facility for which a claim
4 for benefits under this Act has been submitted.

5 (b) The Council shall pre-approve, and the contracting
6 parties shall seek pre-approval for, a contract entered into
7 under this Act if the cost of the contract exceeds \$75,000.
8 The Council or its designee shall review and approve or
9 disapprove all contracts entered into under this Act.
10 However, review by the Council or its designee shall not be
11 required when an emergency situation exists. All contracts
12 entered into by the Council shall be awarded on a
13 competitive basis to the maximum extent practical. In those
14 situations where it is determined that bidding is not
15 practical, the basis for the determination of
16 impracticability shall be documented by the Council or its
17 designee.

18 (c) The Council may prioritize the expenditure of funds
19 from the remedial action account whenever it determines that
20 there are not sufficient funds to settle all current claims.
21 In prioritizing, the Council may consider the following:

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

24 (2) the reduction of risk to human health derived
25 from remedial action compared to the cost of the
26 remedial action;

27 (3) the present and planned uses of the impacted
28 property; and

29 (4) other factors as determined by the Council.

30 The Council shall submit to the Agency for review any
31 prioritization of remediation sites. The Agency shall advise
32 the Council of any additional sites potentially eligible for
33 remediation that have been identified through programs other
34 than this Act and shall comment on the appropriateness of the

1 Council's overall prioritization.

2 The Council may issue a letter to a drycleaning facility
3 that is eligible for prioritization but that has not been
4 prioritized and that meets all applicable federal and State
5 requirements for remediation on a continuous basis, stating
6 that the site is prioritized for clean-up and shall be
7 remediated as long as applicable federal and State
8 requirements continue to be met.

9 (d) The Council must submit to the Agency notice of any
10 proposed environmental action at least 2 weeks prior to the
11 date of the meeting at which the contemplated action is
12 expected to be taken.

13 (e) Agencies including, but not limited to, the Illinois
14 Department of Transportation, the Department of Commerce and
15 Community Affairs, and the Illinois Environmental Protection
16 Agency shall submit to the Council information regarding
17 contractors that have previously been approved by those
18 agencies for performance of environmental remediation. The
19 Council shall provide information regarding those contractors
20 to drycleaners. Reimbursement from the Fund for
21 environmental remediation shall not be limited solely to
22 those contractors that have received this prior approval by
23 the agencies. The Council shall adopt rules allowing direct
24 payment from the Fund of a contractor who performs
25 remediation. The rules concerning direct payment shall
26 include a provision that any applicable deductible must be
27 paid by the drycleaning facility prior to any direct payment
28 from the Fund.

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

30 (415 ILCS 135/40)

31 Sec. 40. Remedial action account.

32 (a) The remedial action account is established to
33 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 Agency Council under this Act at the time of
9 application for remedial action benefits afforded under
10 the Fund, the claimant is only eligible for reimbursement
11 of remedial action costs incurred in connection with a
12 release from that drycleaning facility, subject to any
13 other 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 (3) In the case of a claimant who is the owner of
23 an inactive drycleaning facility and was not the owner or
24 operator of the drycleaning facility when it was an
25 active drycleaning facility, the claimant is only
26 eligible for reimbursement of remedial action costs in
27 connection with a release from the drycleaning facility,
28 subject to the payment of solvent taxes under subsection
29 (h-7) of Section 65 of this Act and to any other
30 limitation under this Act.

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

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

1 (2) At the time the release was discovered by the
2 claimant, the claimant and the drycleaning facility were
3 in compliance with the Agency reporting and technical
4 operating requirements.

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

7 (4) The claimant applying for reimbursement has not
8 filed for bankruptcy on or after the date of his or her
9 discovery of the release.

10 (5) If the claimant is the owner or operator of an
11 active drycleaning facility, the claimant has provided to
12 the Council proof of implementation and maintenance of
13 the following pollution prevention measures:

14 (A) That all drycleaning solvent wastes
15 generated at a drycleaning facility be managed in
16 accordance with applicable State waste management
17 laws and rules.

18 (B) A prohibition on the discharge of
19 wastewater from drycleaning machines or of
20 drycleaning solvent from drycleaning operations to a
21 sanitary sewer or septic tank or to the surface or
22 in groundwater.

23 (C) That every drycleaning facility:

24 (I) install a containment dike or other
25 containment structure around each machine, or
26 item of equipment, ~~or the entire~~ drycleaning
27 area, and portable waste container in which any
28 drycleaning solvent is utilized or stored,
29 which shall be capable of containing leaks,
30 spills, any leak, spill, or releases release of
31 drycleaning solvent from that machine, item, ~~or~~
32 area, or container. The containment dike or
33 other containment structure shall be capable of
34 at least the following:

1 (a) containing a capacity of 110% of
2 the drycleaning solvent in the largest
3 tank or vessel within the machine; and

4 (b) containing 100% of the
5 drycleaning solvent of each item of
6 equipment or drycleaning area; and

7 (c) containing 100% of the
8 drycleaning solvent of the largest
9 portable waste container or at least 10%
10 of the total volume of the portable waste
11 containers stored within the containment
12 dike or structure, whichever is greater.

13 Petroleum underground storage tank systems
14 that are upgraded in accordance with the U.S.
15 EPA upgrade standards for the tanks and related
16 pipng systems and use a leak detection system
17 approved by U.S. or Illinois EPA are exempt
18 from this secondary containment requirement;
19 and

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

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

27 (6) An active drycleaning facility has maintained
28 continuous financial assurance for environmental
29 liability coverage in the amount of at least \$500,000 at
30 least since the date of award of benefits under this
31 Section or July 1, 2000, whichever is earlier. An
32 uninsured drycleaning facility that has filed an
33 application for insurance with the Fund within 90 days
34 after the effective date of this amendatory Act of the

1 92nd General Assembly, obtained insurance through that
 2 application, and maintained that insurance coverage
 3 continuously shall be considered to have conformed with
 4 the requirements of this subdivision (6).

5 (7) The release was discovered on or after July 1,
 6 1997 and before July 1, 2014 2004.

7 (d) A claimant shall submit a completed application form
 8 provided by the Council. The application shall contain
 9 documentation of activities, plans, and expenditures
 10 associated with the eligible costs incurred in response to a
 11 release of drycleaning solvent from a drycleaning facility.
 12 Application for remedial action account benefits must be
 13 submitted to the Council on or before June 30, 2014 2004.

14 (e) Claimants shall be subject to the following
 15 deductible requirements, unless modified pursuant to the
 16 Council's authority under Section 75:

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

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

33 (f) Claimants are subject to the following limitations
 34 on reimbursement:

1 (1) Subsequent to meeting the deductible
 2 requirements of subsection (e), and pursuant to the
 3 requirements of Section 75, reimbursement shall not
 4 exceed \$300,000 per drycleaning facility.‡

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

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

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

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

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

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

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

31 (3) A claimant may appoint the Council as an agent
 32 for the purposes of negotiating contracts with suppliers
 33 of goods or services reimbursable by the Fund. The
 34 Council may select another contractor for goods or

1 services other than the one offered by the claimant if
2 the scope of the proposed work or actual work of the
3 claimant's offered contractor does not reflect the
4 quality of workmanship required or if the costs are
5 determined to be excessive, as determined by the Council.

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

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

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

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

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

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

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

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

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

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

27 (415 ILCS 135/45)

28 Sec. 45. Insurance account.

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

1 required to resolve whether the owner or operator, or both,
2 are responsible for a release under the terms of an agreement
3 between the owner and operator.

4 (a-1) Within 90 days after the effective date of this
5 amendatory Act of the 92nd General Assembly, an active
6 drycleaning facility must obtain and maintain environmental
7 pollution liability insurance. Each active drycleaning
8 facility is required to purchase and maintain insurance from
9 the Fund until that facility has been issued a No Further
10 Remediation Letter or letter issued under Section 4(y) of the
11 Environmental Protection Act by the Agency. After receipt of
12 the No Further Remediation Letter or letter issued under
13 Section 4(y) of the Environmental Protection Act from the
14 Agency, a drycleaner may obtain insurance either from the
15 Fund or from a private insurer.

16 (a-2) Drycleaning facilities that exclusively use or
17 adopt the exclusive use of "green" solvents, as defined by
18 the Council, may obtain insurance either from the Fund or
19 from a private insurer.

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

22 (1) Moneys appropriated to the Council or moneys
23 allocated to the insurance account by the Council
24 according to the Fund budget approved by the Council.

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

27 (3) Investment income attributed to the insurance
28 account by the Council.

29 (c) An owner or operator may purchase coverage of up to
30 \$500,000 per drycleaning facility subject to the terms and
31 conditions under this Section and those adopted by the
32 Council. Coverage shall be limited to remedial action costs
33 associated with soil and groundwater contamination resulting
34 from a release of drycleaning solvent at an insured

1 drycleaning facility, including third-party liability for
2 soil and groundwater contamination. Coverage is not provided
3 for a release that occurred before the date of coverage.

4 (d) An owner or operator, subject to underwriting
5 requirements and terms and conditions deemed necessary and
6 convenient by the Council, may purchase insurance coverage
7 from the insurance account provided that the drycleaning
8 facility to be insured meets the following conditions:

9 (1) a site investigation designed to identify soil
10 and groundwater contamination resulting from the release
11 of a drycleaning solvent has been completed. The Council
12 shall determine if the site investigation is adequate.
13 This investigation must be completed by June 30, 2014
14 2004. For drycleaning facilities that apply for
15 insurance coverage ~~become--active~~ after June 30, 2002
16 2004, the site investigation must be completed prior to
17 issuance of insurance coverage; and

18 (2) the drycleaning facility is participating in
19 and meets all requirements of a drycleaning compliance
20 program approved by the Council.

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

22 (1) For the year July 1, 1999 through June 30,
23 2000, \$250 per drycleaning facility.

24 (2) For the year July 1, 2000 through June 30,
25 2001, \$375 per drycleaning facility.

26 (3) Beginning ~~For--the--year~~ July 1, 2001 through
27 ~~June-30, 2002~~, \$500 per drycleaning facility.

28 ~~(4)--For-the-year-July--1,--2002--through--June--30,~~
29 ~~2003,--\$625-per-drycleaning-facility.~~

30 ~~(5)--For--subsequent--years,--an--owner--or--operator~~
31 ~~applying--for--coverage--shall--pay--an--annual~~
32 ~~actuarially-sound--insurance--premium--for--coverage--by--the~~
33 ~~insurance-account.--The-Council-may-approve-Fund-coverage~~
34 ~~through-the-payment--of--a--premium--established--on--an~~

1 actuarially-sound--basis,--taking--into-consideration-the
2 risk-to-the-insurance-account-presented-by--the--insured.
3 Risk---factor---adjustments---utilized---to---determine
4 actuarially-sound-insurance-premiums-should--reflect--the
5 range--of--risk--presented--by-the-variety-of-drycleaning
6 systems,--monitoring--systems,--drycleaning--volume,--risk
7 management--practices,--and-other-factors-as-determined-by
8 the-Council.--As-used-in-this-item,--"actuarially-sound"--is
9 not-limited-to-Fund-premium-revenue-equaling-or-exceeding
10 Fund-expenditures-for-the--general--drycleaning--facility
11 population.---Actuarially-determined--premiums--shall--be
12 published--at--least--180--days--prior--to--the--premiums
13 becoming-effective.

14 (f) If coverage is purchased for any part of a year, the
15 purchaser shall pay the full annual premium. The insurance
16 premium is fully earned upon issuance of the insurance
17 policy.

18 (g) The insurance coverage shall be provided with a
19 \$10,000 deductible policy.

20 (g-5) Within 3 years after the effective date of this
21 amendatory Act of the 92nd General Assembly, the Council
22 shall adopt the financial and accounting procedures necessary
23 to ensure that insurance premiums paid to the Fund are
24 segregated from all other sources of Fund income.

25 (h) A future repeal of this Section shall not terminate
26 the obligations under this Section or authority necessary to
27 administer the obligations until the obligations are
28 satisfied, including but not limited to the payment of claims
29 filed prior to the effective date of any future repeal
30 against the insurance account until moneys in the account are
31 exhausted. Upon exhaustion of the moneys in the account, any
32 remaining claims shall be invalid. If moneys remain in the
33 account following satisfaction of the obligations under this
34 Section, the remaining moneys and moneys due the account

1 shall be used to assist current insureds to obtain a viable
2 insuring mechanism as determined by the Council after public
3 notice and opportunity for comment.

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

5 (415 ILCS 135/60)

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

7 Sec. 60. Drycleaning facility, drycleaning drop-off
8 facility, or drycleaning solvents dealer license.

9 (a) ~~On--and--after--January--1,--1998,~~ No person shall
10 operate a drycleaning facility or a drycleaning drop-off
11 facility in this State without a license. Beginning January
12 1, 2002, these licenses shall be issued by the Agency
13 Council.

14 (a-5) Beginning 90 days after the effective date of this
15 amendatory Act of the 92nd General Assembly, no person shall
16 operate as a dealer of drycleaning solvents in this State
17 without obtaining a license issued by the Agency.

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

24 (c) The annual fee fees for licensure of drycleaning
25 facilities and drycleaning solvent dealers is \$750. are-as
26 follows: Drycleaning drop-off facilities owned by a licensed
27 active drycleaning facility shall pay an annual fee for
28 licensure of \$150. All other drycleaning drop-off facilities
29 shall pay an annual fee for licensure of \$750. If the
30 license fees paid by active drycleaning drop-off facilities
31 do not yield a total of \$750,000 in any year, the Council may
32 adjust, by rule, the annual license fee paid by active
33 drycleaning drop-off facilities owned by a licensed active

1 drycleaner facility up to a maximum of \$750 or to the amount
2 of the annual license fee applicable to an active drycleaning
3 drop-off facility that is not owned by an active licensed
4 drycleaning facility, whichever is greater.

5 (1) -- \$500 for a facility that purchases 140 gallons
6 or less of chlorine-based drycleaning solvents annually
7 or 1400 gallons or less of hydrocarbon-based drycleaning
8 solvents annually.

9 (2) -- \$1,000 for a facility that purchases more than
10 140 gallons but less than 360 gallons of chlorine-based
11 drycleaning solvents annually or more than 1400 gallons
12 but less than 3600 gallons of hydrocarbon-based
13 drycleaning solvents annually.

14 (3) -- \$1,500 for a facility that purchases 360
15 gallons or more of chlorine-based drycleaning solvents
16 annually or 3600 gallons or more of hydrocarbon-based
17 drycleaning solvents annually.

18 For purpose of this subsection, the quantity of
19 drycleaning solvents purchased annually shall be determined
20 as follows:

21 (1) -- in the case of an initial applicant, the
22 quantity of drycleaning solvents that the applicant
23 estimates will be used during his or her initial license
24 year. A fee assessed under this subdivision is subject
25 to audited adjustment for that year; or

26 (2) -- in the case of a renewal applicant, the
27 quantity of drycleaning solvents actually used in the
28 preceding license year.

29 The Council may adjust licensing fees annually based on
30 the published Consumer Price Index -- All Urban Consumers
31 ("CPI-U") or as otherwise determined by the Council.

32 (d) A license issued under this Section shall expire one
33 year after the date of issuance and may be renewed on
34 reapplication to the Agency Council and submission of proof

1 of payment of the appropriate fee to the Department of
2 Revenue in accordance with subsections (c) and (e). At least
3 30 days before payment of a renewal licensing fee is due, the
4 Agency Council shall attempt to:

5 (1) notify the operator of each licensed
6 drycleaning facility, the operator of each licensed
7 drycleaning drop-off facility, and each licensed dealer
8 of drycleaning solvents concerning the requirements of
9 this Section; and

10 (2) submit a license fee payment form to the
11 licensed operator of each drycleaning facility and each
12 licensed drycleaning drop-off facility and to each
13 licensed dealer of drycleaning solvents.

14 (e) An operator of a drycleaning facility, an operator
15 of drycleaning drop-off facility, and a dealer of drycleaning
16 solvents shall submit the appropriate application form
17 provided by the Agency Council with the license fee in the
18 form of cash, credit card payment, or guaranteed remittance
19 to the Department of Revenue. The license fee payment form
20 and the actual license fee payment shall be administered by
21 the Department of Revenue under rules adopted by that
22 Department.

23 (f) The Department of Revenue shall provide issue a
24 proof of payment receipt to the Agency who shall then issue
25 an annual license to each operator of a drycleaning facility,
26 each operator of a drycleaning drop-off facility, and each
27 dealer of drycleaning solvents who has paid the appropriate
28 fee in cash or by guaranteed remittance. However, the
29 Department of Revenue shall not issue a proof of payment
30 receipt to a drycleaning facility, drycleaning drop-off
31 facility, or dealer of drycleaning solvents that is liable to
32 the Department of Revenue for a tax imposed under this Act.
33 The original receipt shall be presented to the Council by the
34 operator of a drycleaning facility.

1 (f-3) A penalty of no more than \$500 per day, as
2 determined by the Agency, shall be assessed against any
3 operator of a drycleaning facility or drycleaning drop-off
4 facility or any dealer of drycleaning solvents who fails to
5 obtain a valid license by the date required in this Section.

6 (f-5) An operator of a drycleaning facility or
7 drycleaning drop-off facility or a dealer of drycleaning
8 solvents shall be granted a 90 day grace period, beginning on
9 the effective date of this amendatory Act of the 92nd General
10 Assembly, within which to become licensed, to pay any overdue
11 license fees, to pay any unpaid floor taxes, and to pay any
12 penalties as defined in subsection (g) of this Section up to
13 a maximum of \$450, in order to become licensed without
14 penalty.

15 (f-7) A operator of a licensed drycleaning facility, a
16 operator of a licensed drycleaning drop-off facility, or a
17 dealer of licensed drycleaning solvents who has paid
18 penalties in excess of \$450 shall receive from the Council a
19 refund of the amount of the penalties in excess of \$450 that
20 were paid on or before the last day of the 90-day grace
21 period established in subsection (f-5).

22 (g) An operator of a dry cleaning facility or
23 drycleaning drop-off facility or a dealer of dry cleaning
24 solvents who is required to pay a license fee under this Act
25 prior to the end of the 90 day grace period and fails to pay
26 the license fee when the fee is due shall be assessed a
27 penalty of \$5 for each day after the license fee is due and
28 until the license fee is paid. The penalty shall be
29 effective for license fees due on or after July 1, 1999.

30 (g-5) If an insured drycleaning facility or an insured
31 drycleaning drop-off facility fails to pay the premium or
32 fails to maintain an insurance policy covering the facility,
33 the Agency may revoke the drycleaning facility's license or
34 the drycleaning drop-off facility's license.

1 (h) The Agency Council and the Department of Revenue may
2 adopt rules as necessary to administer the licensing
3 requirements of this Act.

4 (i) Where this Section allows for the payment of license
5 fees by cash or guaranteed remittance, the Department may
6 adopt rules allowing for payment of the license fees due
7 under this Act by credit card only when the Department is not
8 required to pay a discount fee charged by the credit card
9 issuer.

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

11 (415 ILCS 135/65)

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

13 Sec. 65. Drycleaning solvent tax.

14 (a) On and after January 1, 1998, a tax is imposed upon
15 the use of drycleaning solvent by a person engaged in the
16 business of operating a drycleaning facility in this State at
17 the rate of \$14.00 ~~\$3.50~~ per gallon of perchloroethylene or
18 other chlorinated drycleaning solvents used in drycleaning
19 operations and \$1.40 ~~\$0.35~~ per gallon of petroleum-based
20 drycleaning solvent. The Council shall determine by rule
21 which products are chlorine-based drycleaning solvents, and
22 which products are petroleum-based drycleaning solvents, and
23 which products are "green" drycleaning solvents. All
24 drycleaning solvents shall be considered chlorinated
25 drycleaning solvents unless the Council determines that the
26 solvents are petroleum-based drycleaning solvents subject to
27 the lower tax.

28 (b) The tax imposed by this Act shall be collected from
29 the purchaser at the time of sale by a seller of drycleaning
30 solvents doing ~~maintaining-a-place-of~~ business in this State
31 and shall be remitted to the Department of Revenue under the
32 provisions of this Act.

33 (c) The tax imposed by this Act that is not collected by

1 a seller of drycleaning solvents shall be paid directly to
2 the Department of Revenue by the purchaser or end user who is
3 subject to the tax imposed by this Act.

4 (d) No tax shall be imposed upon the use of drycleaning
5 solvent if the drycleaning solvent will not be used in a
6 drycleaning facility or if a floor stock tax has been imposed
7 and paid on the drycleaning solvent. Prior to the purchase
8 of the solvent, the purchaser shall provide a written and
9 signed certificate to the drycleaning solvent seller stating:

- 10 (1) the name and address of the purchaser;
- 11 (2) the purchaser's signature and date of signing;
- 12 and
- 13 (3) one of the following:
 - 14 (A) that the drycleaning solvent will not be
 - 15 used in a drycleaning facility; or
 - 16 (B) that a floor stock tax has been imposed
 - 17 and paid on the drycleaning solvent.

18 A person who provides a false certification under this
19 subsection shall be liable for a civil penalty not to exceed
20 \$500 for a first violation and a civil penalty not to exceed
21 \$5,000 for a second or subsequent violation.

22 (e) On January 1, 1998, there is imposed on each
23 operator of a drycleaning facility a tax on drycleaning
24 solvent held by the operator on that date for use in a
25 drycleaning facility. The tax imposed shall be the tax that
26 would have been imposed under subsection (a) if the
27 drycleaning solvent held by the operator on that date had
28 been purchased by the operator during the first year of this
29 Act.

30 (f) On or before the 25th day of the 1st month following
31 the end of the calendar quarter, a seller of drycleaning
32 solvents who has collected a tax pursuant to this Section
33 during the previous calendar quarter, or a purchaser or end
34 user of drycleaning solvents required under subsection (c) to

1 submit the tax directly to the Department, shall file a
2 return with the Department of Revenue. The return shall be
3 filed on a form prescribed by the Department of Revenue and
4 shall contain information that the Department of Revenue
5 reasonably requires.

6 Each seller of drycleaning solvent maintaining a place of
7 business in this State who is required or authorized to
8 collect the tax imposed by this Act shall pay to the
9 Department the amount of the tax at the time when he or she
10 is required to file his or her return for the period during
11 which the tax was collected. Purchasers or end users
12 remitting the tax directly to the Department under subsection
13 (c) shall file a return with the Department of Revenue and
14 pay the tax so incurred by the purchaser or end user during
15 the preceding calendar quarter.

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

19 (h) On and after January 1, 1998, no person shall
20 knowingly sell or transfer drycleaning solvent to an operator
21 of a drycleaning facility that is not licensed by the Agency
22 Council under Section 60. A person who violates this
23 subsection is liable for a civil penalty not to exceed \$500
24 for a first violation and a civil penalty not to exceed
25 \$5,000 for a second or subsequent violation.

26 (h-5) Drycleaning facilities exclusively using
27 drycleaning solvents designated by rule as "green"
28 drycleaning solvents shall pay an annual solvent tax in an
29 amount equal to that imposed on consumption of 100 gallons of
30 chlorine-based drycleaning solvents in that calendar year.

31 (h-7) An owner of an inactive drycleaning facility who
32 was not the owner or operator of the drycleaning facility
33 when it was an active drycleaning facility and who has not
34 been licensed under Section 65 may become eligible for

1 reimbursement for remedial action as provided in Section 40
 2 upon becoming licensed and upon paying solvent taxes in an
 3 amount equal to the total amount imposed on annual
 4 consumption of 100 gallons of chlorine-based solvent from the
 5 effective date of this Act to the date of becoming licensed.

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 135/70)

10 Sec. 70. Deposit of fees and taxes. All license fees and
 11 taxes collected by the Department of Revenue under this Act
 12 shall be deposited into the Fund, except:

13 (1) less 2% 4% of the moneys collected, which shall
 14 be deposited by the State Treasurer into the Tax
 15 Compliance and Administration Fund and shall be used,
 16 subject to appropriation, by the Department of Revenue to
 17 cover the costs of the Department in collecting the
 18 license fees and taxes under this Act;

19 (2) ~~7-and-less~~ an amount sufficient to provide
 20 refunds under this Act; and

21 (3) \$150 of each license fee collected, which shall
 22 be forwarded to the Agency to be used for the costs of
 23 the administration of this Act.

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

25 (415 ILCS 135/75)

26 Sec. 75. Adjustment of fees and taxes. Beginning with the
 27 effective date of this amendatory Act of the 92nd General
 28 Assembly beginning--January-17--20007--and-annually-after-that
 29 date, the Council may adopt rules to shall adjust the
 30 copayment obligation of subsection--(e)--of-Section-40, the
 31 drycleaning solvent taxes of Section 65, the license fees of
 32 Section 60, the insurance premiums in Section 45, or any

1 combination of adjustment of each, after notice and
2 opportunity for public comment, in a manner determined
3 necessary and appropriate to ensure viability of the Fund.
4 Viability of the Fund shall consider the settlement of all
5 current claims subject to prioritization of benefits under
6 subsection (c) of Section 25, consistent with the purposes of
7 this Act.

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

9 (415 ILCS 135/85)

10 Sec. 85. Repeal of fee and tax provisions. Sections 60
11 and 65 of this Act are repealed on January 1, 2020 ~~2010~~.

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

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