

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 (f-5) The Council, in consultation with the Agency,
12 shall define the terms "drycleaning drop-off facility"
13 "drycleaning solvents dealer", and "green solvent" no later
14 than January 1, 2002.

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

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

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

2 (415 ILCS 135/25)

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

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

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

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

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

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

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

31 (6) Cooperate with the Agency in the implementation
32 and administration of this Act to minimize unnecessary
33 duplication of effort, reporting, or paperwork and to

1 maximize environmental protection within the funding
2 limits of this Act.

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

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

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

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

28 (2) the reduction of risk to human health derived
29 from remedial action compared to the cost of the
30 remedial action;

31 (3) the present and planned uses of the impacted
32 property; and

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

34 The Council shall submit to the Agency for review any

1 prioritization of remediation sites. The Agency shall advise
2 the Council of any additional sites potentially eligible for
3 remediation that have been identified through programs other
4 than this Act and shall comment on the appropriateness of the
5 Council's overall prioritization.

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

13 (d) The Council must submit to the Agency notice of any
14 proposed environmental action at least 2 weeks prior to the
15 date of the meeting at which the contemplated action is
16 expected to be taken.

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

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

1 (415 ILCS 135/40)

2 Sec. 40. Remedial action account.

3 (a) The remedial action account is established to
4 provide reimbursement to eligible claimants for drycleaning
5 solvent investigation, remedial action planning, and remedial
6 action activities for existing drycleaning solvent
7 contamination discovered at their drycleaning facilities.

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

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

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

26 (3) In the case of a claimant who is the owner or
27 operator of a licensed drycleaning drop-off facility and
28 who was not the owner or operator of the licensed
29 drycleaning drop-off facility when it was an active
30 drycleaning facility, the claimant is only eligible for
31 reimbursement of remedial action costs in connection with
32 a release from the drycleaning facility, subject to the
33 payment of solvent taxes under subsection (h-7) of
34 Section 65 of this Act and to any other limitation under

1 this Act.

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

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

6 (2) At the time the release was discovered by the
7 claimant, the claimant and the drycleaning facility were
8 in compliance with the Agency reporting and technical
9 operating requirements.

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

12 (4) The claimant applying for reimbursement has not
13 filed for bankruptcy on or after the date of his or her
14 discovery of the release.

15 (5) If the claimant is the owner or operator of an
16 active drycleaning facility, the claimant has provided to
17 the Council proof of implementation and maintenance of
18 the following pollution prevention measures:

19 (A) That all drycleaning solvent wastes
20 generated at a drycleaning facility be managed in
21 accordance with applicable State waste management
22 laws and rules.

23 (B) A prohibition on the discharge of
24 wastewater from drycleaning machines or of
25 drycleaning solvent from drycleaning operations to a
26 sanitary sewer or septic tank or to the surface or
27 in groundwater.

28 (C) That every drycleaning facility:

29 (I) install a containment dike or other
30 containment structure around each machine, or
31 item of equipment, ~~or the entire~~ drycleaning
32 area, and portable waste container in which any
33 drycleaning solvent is utilized or stored,
34 which shall be capable of containing leaks,

1 spills, any-leak, spill, or releases release of
2 drycleaning solvent from that machine, item, or
3 area, or container. The containment dike or
4 other containment structure shall be capable of
5 at least the following:

6 (a) containing a capacity of 110% of
7 the drycleaning solvent in the largest
8 tank or vessel within the machine; and

9 (b) containing 100% of the
10 drycleaning solvent of each item of
11 equipment or drycleaning area; and

12 (c) containing 100% of the
13 drycleaning solvent of the largest
14 portable waste container or at least 10%
15 of the total volume of the portable waste
16 containers stored within the containment
17 dike or structure, whichever is greater.

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

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

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

32 (6) An active drycleaning facility has maintained
33 continuous financial assurance for environmental
34 liability coverage in the amount of at least \$500,000 at

1 least since the date of award of benefits under this
 2 Section or July 1, 2000, whichever is earlier. An
 3 uninsured drycleaning facility that has filed an
 4 application for insurance with the Fund within 90 days
 5 after the effective date of this amendatory Act of the
 6 92nd General Assembly, obtained insurance through that
 7 application, and maintained that insurance coverage
 8 continuously shall be considered to have conformed with
 9 the requirements of this subdivision (6).

10 (7) The release was discovered on or after July 1,
 11 1997 and before July 1, 2014 2004.

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

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

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

30 (2) An eligible claimant submitting a claim for an
 31 inactive drycleaning facility is responsible for 10% the
 32 ~~first-\$10,000~~ of eligible investigation costs and for 10%
 33 ~~the--first--\$10,000~~ of eligible remedial action costs
 34 incurred in connection with the release from that

1 drycleaning facility, and is only eligible for
2 reimbursement for costs that exceed those amounts,
3 subject to any other limitations of this Act.

4 (f) Claimants are subject to the following limitations
5 on reimbursement:

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

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

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

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

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

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

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

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

1 standards.

2 (3) A claimant may appoint the Council as an agent
3 for the purposes of negotiating contracts with suppliers
4 of goods or services reimbursable by the Fund. The
5 Council may select another contractor for goods or
6 services other than the one offered by the claimant if
7 the scope of the proposed work or actual work of the
8 claimant's offered contractor does not reflect the
9 quality of workmanship required or if the costs are
10 determined to be excessive, as determined by the Council.

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

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

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

30 (7) Neither the Council nor an eligible claimant is
31 responsible for payment for costs incurred that have not
32 been previously approved by the Council, unless an
33 emergency exists.

34 (8) The Council may determine the usual and

1 customary costs of each item for which reimbursement may
2 be awarded under this Section. The Council may revise the
3 usual and customary costs from time to time as necessary,
4 but costs submitted for reimbursement shall be subject to
5 the rates in effect at the time the costs were incurred.

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

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

21 (h) A drycleaning facility will be classified as active
22 or inactive for purposes of determining benefits under this
23 Section based on the status of the facility on the date a
24 claim is filed.

25 (i) Eligible claimants shall conduct remedial action in
26 accordance with the Site Remediation Program under the
27 Environmental Protection Act and Part 740 of Title 35 of the
28 Illinois Administrative Code and the Tiered Approach to
29 Cleanup Objectives under Part 742 of Title 35 of the Illinois
30 Administrative Code.

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

32 (415 ILCS 135/45)

33 Sec. 45. Insurance account.

1 (a) The insurance account shall offer financial
2 assurance for a qualified owner or operator of a drycleaning
3 facility under the terms and conditions provided for under
4 this Section. Coverage may be provided to either the owner or
5 the operator of a drycleaning facility. The Council is not
6 required to resolve whether the owner or operator, or both,
7 are responsible for a release under the terms of an agreement
8 between the owner and operator.

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

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

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

27 (1) Moneys appropriated to the Council or moneys
28 allocated to the insurance account by the Council
29 according to the Fund budget approved by the Council.

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

32 (3) Investment income attributed to the insurance
33 account by the Council.

34 (c) An owner or operator may purchase coverage of up to

1 \$500,000 per drycleaning facility subject to the terms and
 2 conditions under this Section and those adopted by the
 3 Council. Coverage shall be limited to remedial action costs
 4 associated with soil and groundwater contamination resulting
 5 from a release of drycleaning solvent at an insured
 6 drycleaning facility, including third-party liability for
 7 soil and groundwater contamination. Coverage is not provided
 8 for a release that occurred before the date of coverage.

9 (d) An owner or operator, subject to underwriting
 10 requirements and terms and conditions deemed necessary and
 11 convenient by the Council, may purchase insurance coverage
 12 from the insurance account provided that the drycleaning
 13 facility to be insured meets the following conditions:

14 (1) a site investigation designed to identify soil
 15 and groundwater contamination resulting from the release
 16 of a drycleaning solvent has been completed. The Council
 17 shall determine if the site investigation is adequate.
 18 This investigation must be completed by June 30, 2014
 19 2004. For drycleaning facilities that apply for
 20 insurance coverage ~~become--active~~ after June 30, 2002
 21 2004, the site investigation must be completed prior to
 22 issuance of insurance coverage; and

23 (2) the drycleaning facility is participating in
 24 and meets all requirements of a drycleaning compliance
 25 program approved by the Council.

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

27 (1) For the year July 1, 1999 through June 30,
 28 2000, \$250 per drycleaning facility.

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

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

33 ~~(4)--For--the--year--July--1--2002--through--June--30--~~
 34 ~~2003--\$625--per--drycleaning--facility-~~

1 (5) For subsequent years, an owner or operator
 2 applying for coverage shall pay an annual
 3 actuarially sound insurance premium for coverage by the
 4 insurance account. The Council may approve Fund coverage
 5 through the payment of a premium established on an
 6 actuarially sound basis, taking into consideration the
 7 risk to the insurance account presented by the insured.
 8 Risk factor adjustments utilized to determine
 9 actuarially sound insurance premiums should reflect the
 10 range of risk presented by the variety of drycleaning
 11 systems, monitoring systems, drycleaning volume, risk
 12 management practices, and other factors as determined by
 13 the Council. As used in this item, "actuarially sound" is
 14 not limited to Fund premium revenue equaling or exceeding
 15 Fund expenditures for the general drycleaning facility
 16 population. Actuarially determined premiums shall be
 17 published at least 180 days prior to the premiums
 18 becoming effective.

19 (f) If coverage is purchased for any part of a year, the
 20 purchaser shall pay the full annual premium. The insurance
 21 premium is fully earned upon issuance of the insurance
 22 policy.

23 (g) The insurance coverage shall be provided with a
 24 \$10,000 deductible policy.

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

30 (h) A future repeal of this Section shall not terminate
 31 the obligations under this Section or authority necessary to
 32 administer the obligations until the obligations are
 33 satisfied, including but not limited to the payment of claims
 34 filed prior to the effective date of any future repeal

1 against the insurance account until moneys in the account are
 2 exhausted. Upon exhaustion of the moneys in the account, any
 3 remaining claims shall be invalid. If moneys remain in the
 4 account following satisfaction of the obligations under this
 5 Section, the remaining moneys and moneys due the account
 6 shall be used to assist current insureds to obtain a viable
 7 insuring mechanism as determined by the Council after public
 8 notice and opportunity for comment.

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

10 (415 ILCS 135/60)

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

12 Sec. 60. Drycleaning facility, drycleaning drop-off
 13 facility, or drycleaning solvents dealer license.

14 (a) ~~On and after January 1, 1998,~~ On and after January
 15 1, 2002, no person shall operate a drycleaning facility or a
 16 drycleaning drop-off facility in this State without a license
 17 issued by the Agency Council.

18 ~~(a-5)~~ On and after January 1, 2002, no person shall
 19 operate as a dealer of drycleaning solvents in this State
 20 without obtaining a license issued by the Agency.

21 (b) On and after January 1, 2002 the Agency Council
 22 shall issue an initial or renewal license to a drycleaning
 23 facility, drycleaning drop-off facility, or drycleaning
 24 solvents dealer on submission by an applicant of a completed
 25 form prescribed by the Agency Council and proof of payment of
 26 the required fee to the Department of Revenue.

27 (c) On and after January 1, 2002, the annual fee fees
 28 for licensure of drycleaning facilities and drycleaning
 29 solvent dealers is \$750. are-as-follows: Drycleaning drop-off
 30 facilities owned by a licensed active drycleaning facility
 31 shall pay an annual fee for licensure of \$150. All other
 32 drycleaning drop-off facilities shall pay an annual fee for
 33 licensure of \$750. If the license fees paid by active

1 drycleaning drop-off facilities do not yield a total of
 2 \$750,000 in any year, the Council may adjust, by rule, the
 3 annual license fee paid by active drycleaning drop-off
 4 facilities owned by a licensed active drycleaner facility up
 5 to a maximum of \$750 or to the amount of the annual license
 6 fee applicable to an active drycleaning drop-off facility
 7 that is not owned by an active licensed drycleaning facility,
 8 whichever is greater.

9 (1) --\$500 for a facility that purchases 140 gallons
 10 or less of chlorine-based drycleaning solvents annually
 11 or 1400 gallons or less of hydrocarbon-based drycleaning
 12 solvents annually.

13 (2) --\$1,000 for a facility that purchases more than
 14 140 gallons but less than 360 gallons of chlorine-based
 15 drycleaning solvents annually or more than 1400 gallons
 16 but less than 3600 gallons of hydrocarbon-based
 17 drycleaning solvents annually.

18 (3) --\$1,500 for a facility that purchases 360
 19 gallons or more of chlorine-based drycleaning solvents
 20 annually or 3600 gallons or more of hydrocarbon-based
 21 drycleaning solvents annually.

22 For purpose of this subsection, the quantity of
 23 drycleaning solvents purchased annually shall be determined
 24 as follows:

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

30 (2) in the case of a renewal applicant, the
 31 quantity of drycleaning solvents actually used in the
 32 preceding license year.

33 The Council may adjust licensing fees annually based on
 34 the published Consumer Price Index. All Urban Consumers

~~("CPI-U") or as otherwise determined by the Council.~~

(d) A license issued under this Section shall expire one year after the date of issuance and may be renewed on reapplication to the Agency Council and submission of proof of payment of the appropriate fee to the Department of Revenue in accordance with subsections (c) and (e). On and after January 1, 2002, at least 30 days before payment of a renewal licensing fee is due, the Agency Council shall attempt to:

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

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

(e) On and after January 1, 2002, an operator of a drycleaning facility, an operator of drycleaning drop-off facility, and a dealer of drycleaning solvents shall submit the appropriate application form provided by the Agency Council with the license fee in the form of cash or guaranteed remittance to the Department of Revenue. The license fee payment form and the actual license fee payment shall be administered by the Department of Revenue under rules adopted by that Department.

(f) On and after January 1, 2002, the Department of Revenue shall provide ~~issue~~ a proof of payment receipt to the Agency who shall then issue an annual license to each operator of a drycleaning facility, each operator of a drycleaning drop-off facility, and each dealer of drycleaning solvents who has paid the appropriate fee in cash or by guaranteed remittance. ~~However, the Department of Revenue~~

1 shall--not--issue-a-proof-of-payment-receipt-to-a-drycleaning
2 facility-that-is-liable-to-the-Department-of--Revenue--for--a
3 tax--imposed--under--this-Act.--The-original-receipt-shall-be
4 presented-to-the-Council-by-the--operator--of--a--drycleaning
5 facility.

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

12 (f-5) An operator of a drycleaning facility or
13 drycleaning drop-off facility or a dealer of drycleaning
14 solvents shall be granted a 90 day grace period, beginning on
15 January 1, 2002, within which to become licensed, to pay any
16 overdue license fees, to pay any unpaid floor taxes, and to
17 pay any penalties as defined in subsection (g) of this
18 Section up to a maximum of \$450, in order to become licensed
19 without penalty.

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

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

1 (g-5) Any drycleaning facility or drycleaning drop-off
 2 facility required under Section 45 to be insured must pay the
 3 premium or the Agency may revoke the drycleaning facility's
 4 license or the drycleaning drop-off facility's license.

5 (h) The Agency Council and the Department of Revenue may
 6 adopt rules as necessary to administer the licensing
 7 requirements of this Act.

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

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

15 (415 ILCS 135/65)

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

17 Sec. 65. Drycleaning solvent tax.

18 (a) On and after January 1, 2002, ~~On and after January~~
 19 ~~1-1998,~~ a tax is imposed upon the use of drycleaning solvent
 20 by a person engaged in the business of operating a
 21 drycleaning facility in this State at the rate of \$14.00
 22 ~~\$3.50~~ per gallon of perchloroethylene or other chlorinated
 23 drycleaning solvents used in drycleaning operations and \$1.40
 24 ~~\$0.35~~ per gallon of petroleum-based drycleaning solvent. The
 25 Council shall determine by rule which products are
 26 chlorine-based drycleaning solvents, and which products are
 27 petroleum-based drycleaning solvents, and which products are
 28 "green" drycleaning solvents. All drycleaning solvents shall
 29 be considered chlorinated drycleaning solvents unless the
 30 Council determines that the solvents are petroleum-based
 31 drycleaning solvents subject to the lower tax.

32 (b) The tax imposed by this Act shall be collected from
 33 the purchaser at the time of sale by a seller of drycleaning

1 solvents maintaining a place of business in this State and
2 shall be remitted to the Department of Revenue under the
3 provisions of this Act.

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

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

14 (1) the name and address of the purchaser;

15 (2) the purchaser's signature and date of signing;

16 and

17 (3) one of the following:

18 (A) that the drycleaning solvent will not be
19 used in a drycleaning facility; or

20 (B) that a floor stock tax has been imposed
21 and paid on the drycleaning solvent.

22 A person who provides a false certification under this
23 subsection shall be liable for a civil penalty not to exceed
24 \$500 for a first violation and a civil penalty not to exceed
25 \$5,000 for a second or subsequent violation.

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

34 (f) On or before the 25th day of the 1st month following

1 the end of the calendar quarter, a seller of drycleaning
2 solvents who has collected a tax pursuant to this Section
3 during the previous calendar quarter, or a purchaser or end
4 user of drycleaning solvents required under subsection (c) to
5 submit the tax directly to the Department, shall file a
6 return with the Department of Revenue. The return shall be
7 filed on a form prescribed by the Department of Revenue and
8 shall contain information that the Department of Revenue
9 reasonably requires.

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

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

23 (h) On and after January 1, 1998, no person shall
24 knowingly sell or transfer drycleaning solvent to an operator
25 of a drycleaning facility that is not licensed by the Agency
26 Council under Section 60. A person who violates this
27 subsection is liable for a civil penalty not to exceed \$500
28 for a first violation and a civil penalty not to exceed
29 \$5,000 for a second or subsequent violation.

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

1 (h-7) An owner of an inactive drycleaning facility who
 2 was not the owner or operator of the drycleaning facility
 3 when it was an active drycleaning facility and who has not
 4 been licensed under Section 65 may become eligible for
 5 reimbursement for remedial action as provided in Section 40
 6 upon becoming licensed and upon paying solvent taxes in an
 7 amount equal to the total amount imposed on annual
 8 consumption of 100 gallons of chlorine-based solvent from the
 9 effective date of this Act to the date of becoming licensed.

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

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

13 (415 ILCS 135/70)

14 Sec. 70. Deposit of fees and taxes. On and after January
 15 1, 2002, all license fees and taxes collected by the
 16 Department of Revenue under this Act shall be deposited into
 17 the Fund, except:

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

24 (2) ~~7--and--~~less an amount sufficient to provide
 25 refunds under this Act; and

26 (3) \$150 of each license fee collected, which shall
 27 be forwarded to the Agency to be used for the costs of
 28 the administration of this Act.

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

30 (415 ILCS 135/75)

31 Sec. 75. Adjustment of fees and taxes. Beginning with the
 32 effective date of this amendatory Act of the 92nd General

1 ~~Assembly beginning January 1, 2000, and annually after that~~
2 date, the Council may adopt rules to shall adjust the
3 ~~payment obligation of subsection (e) of Section 40,~~ the
4 drycleaning solvent taxes of Section 65, the license fees of
5 Section 60, the insurance premiums in Section 45, or any
6 combination of adjustment of each, after notice and
7 opportunity for public comment, in a manner determined
8 necessary and appropriate to ensure viability of the Fund.
9 Viability of the Fund shall consider the settlement of all
10 current claims subject to prioritization of benefits under
11 subsection (c) of Section 25, consistent with the purposes of
12 this Act.

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

14 (415 ILCS 135/85)

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

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."