

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 January 1, 2002 shall  
16 serve the remainder of their terms, notwithstanding that the  
17 Senate has not consented to their appointment.

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

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

1 of the Council.

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

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

5 (415 ILCS 135/20)

6 Sec. 20. Council rules.

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

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

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

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

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

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

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

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

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

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

1 (415 ILCS 135/25)

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

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

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

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

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

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

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

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

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

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

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

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

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

29           (3) the present and planned uses of the impacted  
30 property; and

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

32           The Council shall submit to the Agency for review any  
33 prioritization of remediation sites. The Agency shall advise  
34 the Council of any additional sites potentially eligible for

1 remediation that have been identified through programs other  
2 than this Act and shall comment on the appropriateness of the  
3 Council's overall prioritization.

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

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

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

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

32 (415 ILCS 135/40)

33 Sec. 40. Remedial action account.

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

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

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

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

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

34 (c) An eligible claimant requesting reimbursement from



1 the remedial action account shall meet all of the following:

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

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

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

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

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

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

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

26 (C) That every drycleaning facility:

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

1 area, or container. The containment dike or  
2 other containment structure shall be capable of  
3 at least the following:

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

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

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

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

1 uninsured drycleaning facility that has filed an  
 2 application for insurance with the Fund by April 1, 2002,  
 3 obtained insurance through that application, and  
 4 maintained that insurance coverage continuously shall be  
 5 considered to have conformed with the requirements of  
 6 this subdivision (6).

7 (7) The release was discovered on or after July 1,  
 8 1997 and before July 1, 2014 2004.

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

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

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

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

1 (f) Claimants are subject to the following limitations  
2 on reimbursement:

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

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

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

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

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

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

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

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

33 (3) A claimant may appoint the Council as an agent  
34 for the purposes of negotiating contracts with suppliers

1 of goods or services reimbursable by the Fund. The  
2 Council may select another contractor for goods or  
3 services other than the one offered by the claimant if  
4 the scope of the proposed work or actual work of the  
5 claimant's offered contractor does not reflect the  
6 quality of workmanship required or if the costs are  
7 determined to be excessive, as determined by the Council.

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

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

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

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

31 (8) The Council may determine the usual and  
32 customary costs of each item for which reimbursement may  
33 be awarded under this Section. The Council may revise the  
34 usual and customary costs from time to time as necessary,

1 but costs submitted for reimbursement shall be subject to  
2 the rates in effect at the time the costs were incurred.

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

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

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

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

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

29 (415 ILCS 135/45)

30 Sec. 45. Insurance account.

31 (a) The insurance account shall offer financial  
32 assurance for a qualified owner or operator of a drycleaning  
33 facility under the terms and conditions provided for under

1 this Section. Coverage may be provided to either the owner or  
2 the operator of a drycleaning facility. The Council is not  
3 required to resolve whether the owner or operator, or both,  
4 are responsible for a release under the terms of an agreement  
5 between the owner and operator.

6 (a-1) By April 1, 2002, an active drycleaning facility  
7 must obtain and maintain environmental pollution liability  
8 insurance. Each active drycleaning facility is required to  
9 purchase and maintain insurance from the Fund until that  
10 facility has been issued a No Further Remediation Letter or  
11 letter issued under Section 4(y) of the Environmental  
12 Protection Act by the Agency. After receipt of the No  
13 Further Remediation Letter or letter issued under Section  
14 4(y) of the Environmental Protection Act from the Agency, a  
15 drycleaner may obtain insurance either from the Fund or from  
16 a private insurer.

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

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

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

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

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

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

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

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

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

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

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

23 (1) For the year July 1, 1999 through June 30,  
24 2000, \$250 per drycleaning facility.

25 (2) For the year July 1, 2000 through June 30,  
26 2001, \$375 per drycleaning facility.

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

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

31 ~~(5)--For--subsequent--years--an--owner--or--operator~~  
32 ~~applying---for---coverage---shall---pay---an---annual~~  
33 ~~actuarially-sound--insurance--premium-for-coverage-by-the~~  
34 ~~insurance-account--The-Council-may-approve-Fund-coverage~~



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

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

19 (g) The insurance coverage shall be provided with a  
20 \$10,000 deductible policy.

21 (g-5) By January 1, 2005, the Council shall adopt the  
22 financial and accounting procedures necessary to ensure that  
23 insurance premiums paid to the Fund are segregated from all  
24 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-17-1998,~~ On and after January  
10 1, 2002, no person shall operate a drycleaning facility or a  
11 drycleaning drop-off facility in this State without a license  
12 issued by the Agency Council.

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

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

22 (c) On and after January 1, 2002, the annual fee fees  
23 for licensure of drycleaning facilities and drycleaning  
24 solvent dealers is \$750. are-as-follows: Drycleaning drop-off  
25 facilities owned by a licensed active drycleaning facility  
26 shall pay an annual fee for licensure of \$150. All other  
27 drycleaning drop-off facilities shall pay an annual fee for  
28 licensure of \$750. If the license fees paid by active  
29 drycleaning drop-off facilities do not yield a total of  
30 \$750,000 in any year, the Council may adjust, by rule, the  
31 annual license fee paid by active drycleaning drop-off  
32 facilities owned by a licensed active drycleaner facility up  
33 to a maximum of \$750 or to the amount of the annual license

1 fee applicable to an active drycleaning drop-off facility  
2 that is not owned by an active licensed drycleaning facility,  
3 whichever is greater.

4 (1) -- \$500 -- for a facility that purchases 140 gallons  
5 or less of chlorine-based drycleaning solvents annually  
6 or 1400 gallons or less of hydrocarbon-based drycleaning  
7 solvents annually.

8 (2) -- \$1,000 -- for a facility that purchases more than  
9 140 gallons but less than 360 gallons of chlorine-based  
10 drycleaning solvents annually or more than 1400 gallons  
11 but less than 3600 gallons of hydrocarbon-based  
12 drycleaning solvents annually.

13 (3) -- \$1,500 -- for a facility that purchases 360  
14 gallons or more of chlorine-based drycleaning solvents  
15 annually or 3600 gallons or more of hydrocarbon-based  
16 drycleaning solvents annually.

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

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

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

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

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

1 Revenue in accordance with subsections (c) and (e). On and  
2 after January 1, 2002, at least 30 days before payment of a  
3 renewal licensing fee is due, the Agency Council shall  
4 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) On and after January 1, 2002, an operator of a  
15 drycleaning facility, an operator of drycleaning drop-off  
16 facility, and a dealer of drycleaning solvents shall submit  
17 the appropriate application form provided by the Agency  
18 Council with the license fee in the form of cash or  
19 guaranteed remittance to the Department of Revenue. The  
20 license fee payment form and the actual license fee payment  
21 shall be administered by the Department of Revenue under  
22 rules adopted by that Department.

23 (f) On and after January 1, 2002, the Department of  
24 Revenue shall provide ~~issue~~ a proof of payment receipt to the  
25 Agency who shall then issue an annual license to each  
26 operator of a drycleaning facility, each operator of a  
27 drycleaning drop-off facility, and each dealer of drycleaning  
28 solvents who has paid the appropriate fee in cash or by  
29 guaranteed remittance. ~~However,--the-Department-of-Revenue~~  
30 ~~shall-not-issue-a-proof-of-payment-receipt-to--a--drycleaning~~  
31 ~~facility--that--is--liable-to-the-Department-of-Revenue-for-a~~  
32 ~~tax-imposed-under-this-Act.--The-original--receipt--shall--be~~  
33 ~~presented--to--the--Council--by-the-operator-of-a-drycleaning~~  
34 ~~facility.~~

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

7       (f-5) An operator of a drycleaning facility or  
8 drycleaning drop-off facility or a dealer of drycleaning  
9 solvents shall be granted a 90 day grace period, beginning on  
10 January 1, 2002, within which to become licensed, to pay any  
11 overdue license fees, to pay any unpaid floor taxes, and to  
12 pay any penalties as defined in subsection (g) of this  
13 Section up to a maximum of \$450, in order to become licensed  
14 without 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) Any drycleaning facility or drycleaning drop-off  
31 facility required under Section 45 to be insured must pay the  
32 premium or the Agency may revoke the drycleaning facility's  
33 license or the drycleaning drop-off facility's license.

34       (h) The Agency Council and the Department of Revenue may

1 adopt rules as necessary to administer the licensing  
2 requirements of this Act.

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

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

10 (415 ILCS 135/65)

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

12 Sec. 65. Drycleaning solvent tax.

13 (a) On and after January 1, 2002, ~~On-and-after-January~~  
14 ~~17-1998,~~ a tax is imposed upon the use of drycleaning solvent  
15 by a person engaged in the business of operating a  
16 drycleaning facility in this State at the rate of \$14.00  
17 ~~\$3.50~~ per gallon of perchloroethylene or other chlorinated  
18 drycleaning solvents used in drycleaning operations and \$1.40  
19 ~~\$0.35~~ per gallon of petroleum-based drycleaning solvent. The  
20 Council shall determine by rule which products are  
21 chlorine-based drycleaning solvents, and which products are  
22 petroleum-based drycleaning solvents, and which products are  
23 "green" drycleaning solvents. All drycleaning solvents shall  
24 be considered chlorinated drycleaning solvents unless the  
25 Council determines that the solvents are petroleum-based  
26 drycleaning solvents subject to the lower tax.

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

32 (c) The tax imposed by this Act that is not collected by  
33 a seller of drycleaning solvents shall be paid directly to

1 the Department of Revenue by the purchaser or end user who is  
2 subject to the tax imposed by this Act.

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

- 9 (1) the name and address of the purchaser;
- 10 (2) the purchaser's signature and date of signing;

11 and

- 12 (3) one of the following:

- 13 (A) that the drycleaning solvent will not be  
14 used in a drycleaning facility; or

- 15 (B) that a floor stock tax has been imposed  
16 and paid on the drycleaning solvent.

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

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

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

1 return with the Department of Revenue. The return shall be  
2 filed on a form prescribed by the Department of Revenue and  
3 shall contain information that the Department of Revenue  
4 reasonably requires.

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

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

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

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

30 (h-7) A claimant who is eligible for reimbursement from  
31 the remedial action account under subsection (b)(2) or (b)(3)  
32 of Section 40 shall pay solvent taxes in an amount equal to  
33 the total amount imposed on annual consumption of 100 gallons  
34 of chlorine-based solvent from the effective date of this Act



1 to the date of becoming licensed.

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

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

5 (415 ILCS 135/70)

6 Sec. 70. Deposit of fees and taxes. On and after January  
7 1, 2002, all license fees and taxes collected by the  
8 Department of Revenue under this Act shall be deposited into  
9 the Fund, except:

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

16 (2) ~~and less~~ an amount sufficient to provide  
17 refunds under this Act; and

18 (3) \$150 of each license fee collected, which shall  
19 be forwarded to the Agency to be used for the costs of  
20 the administration of this Act.

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

22 (415 ILCS 135/75)

23 Sec. 75. Adjustment of fees and taxes. Beginning January  
24 1, 2002 ~~beginning January 1, 2000, and annually after that~~  
25 ~~date,~~ the Council may adopt rules to ~~shall~~ adjust the  
26 ~~payment obligation of subsection (e) of Section 40,~~ the  
27 drycleaning solvent taxes of Section 65, the license fees of  
28 Section 60, the insurance premiums in Section 45, or any  
29 combination of adjustment of each, after notice and  
30 opportunity for public comment, in a manner determined  
31 necessary and appropriate to ensure viability of the Fund.  
32 Viability of the Fund shall consider the settlement of all

1 current claims subject to prioritization of benefits under  
2 subsection (c) of Section 25, consistent with the purposes of  
3 this Act.

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

5 (415 ILCS 135/85)

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

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

9 Section 99. Effective date. This Act takes effect on  
10 January 1, 2002, except that this Section and the changes  
11 made to Section 20 of the Drycleaner Environmental Response  
12 Trust Fund Act take effect upon becoming law."