



Rep. Mike Fortner

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LRB100 08184 MJP 27115 a

1 AMENDMENT TO SENATE BILL 1648

2 AMENDMENT NO. _____. Amend Senate Bill 1648 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 adding Section 4.2 as follows:

6 (415 ILCS 5/4.2 new)

7 Sec. 4.2. Transfer of Drycleaner Environmental Response
8 Trust Fund Council functions to the Agency.

9 (a) On July 1, 2018, all powers, duties, rights, and
10 responsibilities of the Drycleaner Environmental Response
11 Trust Fund Council under the Drycleaner Environmental Response
12 Trust Fund Act are transferred to the Agency. On and after July
13 1, 2018, all of the general powers reasonably necessary and
14 convenient to implement and administer the Drycleaner
15 Environmental Response Trust Fund Act are vested in and may be
16 exercised by the Agency, including, but not limited to, the

1 powers described in Section 25 of the Drycleaner Environmental
2 Response Trust Fund Act.

3 (b) For the purposes of the Successor Agency Act and
4 Section 9b of the State Finance Act, the Agency is the
5 successor to the Council.

6 (c) All books, records, papers, documents, property (real
7 and personal), contracts, causes of action, and pending
8 business pertaining to the powers, duties, rights, and
9 responsibilities transferred by this amendatory Act of the
10 100th General Assembly, including, but not limited to, material
11 in electronic or magnetic format and necessary computer
12 hardware and software, shall be transferred to the Agency,
13 regardless of whether they are in the possession of the
14 Council, an independent contractor who serves as Administrator
15 of the Fund, or any other person.

16 (d) All unexpended appropriations and balances and other
17 funds available for use by the Council shall, pursuant to the
18 direction of the Governor, be transferred for use by the Agency
19 in accordance with this amendatory Act of the 100th General
20 Assembly, regardless of whether they are in the possession of
21 the Council, an independent contractor who serves as
22 Administrator of the Fund, or any other person. Unexpended
23 balances so transferred shall be expended by the Agency only
24 for the purpose for which the appropriations were originally
25 made.

26 (e) Whenever reports or notices are required to be made or

1 given or papers or documents furnished or served by any person
2 to or upon the Council or the Administrator of the Fund in
3 connection with any of the powers, duties, rights, or
4 responsibilities transferred by this amendatory Act of the
5 100th General Assembly to the Agency, the same shall be made,
6 given, furnished, or served in the same manner to or upon the
7 Agency.

8 (f) The transfer of powers, duties, rights, and
9 responsibilities pursuant to this amendatory Act of the 100th
10 General Assembly does not affect any act done, ratified, or
11 canceled or any right occurring or established or any action or
12 proceeding had or commenced in an administrative, civil, or
13 criminal cause by the Council or the Administrator of the Fund
14 before July 1, 2018; such actions or proceedings may be
15 prosecuted and continued by the Agency.

16 (g) On July 1, 2018, all rules duly adopted by the Council
17 prior to that date shall become rules of the Agency, and the
18 Agency may thereafter amend the transferred rules as it deems
19 necessary to administer this Act. This amendatory Act of the
20 100th General Assembly does not affect the legality of any rule
21 in the Illinois Administrative Code.

22 Section 10. The Drycleaner Environmental Response Trust
23 Fund Act is amended by changing Sections 5, 10, 15, 25, 40, 50,
24 60, 65, 69, 75, 80, and 85 and by adding Sections 69.5 and 86 as
25 follows:

1 (415 ILCS 135/5)

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

3 ~~(a)~~ "Active drycleaning facility" means a drycleaning
4 facility actively engaged in drycleaning operations and
5 licensed under Section 60 of this Act.

6 ~~(b)~~ "Agency" means the Illinois Environmental Protection
7 Agency.

8 ~~(c)~~ "Claimant" means an owner or operator of a drycleaning
9 facility who has applied for reimbursement from the remedial
10 account or who has submitted a claim under the insurance
11 account with respect to a release.

12 ~~(d)~~ "Council" means the Drycleaner Environmental Response
13 Trust Fund Council.

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

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

19 (1) a facility located on a United States military
20 base;

21 (2) an industrial laundry, commercial laundry, or
22 linen supply facility;

23 (3) a prison or other penal institution that engages in
24 drycleaning only as part of a Correctional Industries
25 program to provide drycleaning to persons who are

1 incarcerated in a prison or penal institution or to
2 resident patients of a State-operated mental health
3 facility;

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

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

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

13 ~~(h)~~ "Drycleaning solvent" means any and all nonaqueous
14 solvents, including but not limited to a chlorine-based or
15 petroleum-based formulation or product, including green
16 solvents, that are used as a primary cleaning agent in
17 drycleaning operations.

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

26 ~~(j)~~ "Groundwater" means underground water that occurs

1 within the saturated zone and geologic materials where the
2 fluid pressure in the pore space is equal to or greater than
3 the atmospheric pressure.

4 ~~(k)~~ "Inactive drycleaning facility" means a drycleaning
5 facility that is not being used for drycleaning operations and
6 is not registered under this Act.

7 ~~(l)~~ "Maintaining a place of business in this State" or any
8 like term means (1) having or maintaining within this State,
9 directly or through a subsidiary, an office, distribution
10 facility, distribution house, sales house, warehouse, or other
11 place of business or (2) operating within this State as an
12 agent or representative for a person or a person's subsidiary
13 engaged in the business of selling to persons within this
14 State, irrespective of whether the place of business or agent
15 or other representative is located in this State permanently or
16 temporary, or whether the person or the person's subsidiary
17 engages in the business of selling in this State.

18 ~~(m)~~ "No Further Remediation Letter" means a letter provided
19 by the Agency pursuant to Section 58.10 of Title XVII of the
20 Environmental Protection Act.

21 ~~(n)~~ "Operator" means a person or entity holding a business
22 license to operate a licensed drycleaning facility or the
23 business operation of which the drycleaning facility is a part.

24 ~~(o)~~ "Owner" means (1) a person who owns or has possession
25 or control of a drycleaning facility at the time a release is
26 discovered, regardless of whether the facility remains in

1 operation or (2) a parent corporation of the person under item
2 (1) of this subdivision.

3 ~~(p)~~ "Parent corporation" means a business entity or other
4 business arrangement that has elements of common ownership or
5 control or that uses a long-term contractual arrangement with a
6 person to avoid direct responsibility for conditions at a
7 drycleaning facility.

8 ~~(q)~~ "Person" means an individual, trust, firm, joint stock
9 company, corporation, consortium, joint venture, or other
10 commercial entity.

11 ~~(r)~~ "Program year" means the period beginning on July 1 and
12 ending on the following June 30.

13 ~~(s)~~ "Release" means any spilling, leaking, emitting,
14 discharging, escaping, leaching, or dispersing of drycleaning
15 solvents from a drycleaning facility to groundwater, surface
16 water, or subsurface soils.

17 ~~(t)~~ "Remedial action" means activities taken to comply with
18 Title XVII Sections 58.6 and 58.7 of the Environmental
19 Protection Act and rules adopted by the Pollution Control Board
20 to administer that Title ~~under those Sections~~.

21 ~~(u)~~ "Responsible party" means an owner, operator, or other
22 person financially responsible for costs of remediation of a
23 release of drycleaning solvents from a drycleaning facility.

24 ~~(v)~~ "Service provider" means a consultant, testing
25 laboratory, monitoring well installer, soil boring contractor,
26 other contractor, lender, or any other person who provides a

1 product or service for which a claim for reimbursement has been
2 or will be filed against the remedial account or insurance
3 account, or a subcontractor of such a person.

4 ~~(w)~~ "Virgin facility" means a drycleaning facility that has
5 never had chlorine-based or petroleum-based drycleaning
6 solvents stored or used at the property prior to it becoming a
7 green solvent drycleaning facility.

8 (Source: P.A. 93-201, eff. 1-1-04.)

9 (415 ILCS 135/10)

10 Sec. 10. Drycleaner Environmental Response Trust Fund.

11 (a) The Drycleaner Environmental Response Trust Fund is
12 created as a special fund in the State Treasury. Moneys
13 deposited into the Fund shall be used solely for the purposes
14 of the Council and for other purposes as provided in this Act.
15 The Fund shall include moneys credited to the Fund under this
16 Act and other moneys that by law may be credited to the Fund.
17 The State Treasurer may invest Funds deposited into the Fund at
18 the direction of the Council. Interest, income from the
19 investments, and other income earned by the Fund shall be
20 credited to and deposited into the Fund.

21 ~~Pursuant to appropriation, all moneys in the Drycleaner~~
22 ~~Environmental Response Trust Fund shall be disbursed by the~~
23 ~~Agency to the Council for the purpose of making disbursements,~~
24 ~~if any, in accordance with this Act and for the purpose of~~
25 ~~paying the ordinary and contingent expenses of the Council.~~

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

6 The Fund may be divided into different accounts with
7 different depositories to fulfill the purposes of the Act as
8 determined by the Council.

9 Moneys in the Fund at the end of a State fiscal year shall
10 be carried forward to the next fiscal year and shall not revert
11 to the General Revenue Fund.

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

14 (1) To establish an account to fund remedial action of
15 drycleaning solvent releases from drycleaning facilities
16 as provided by Section 40.

17 (2) To establish an insurance account for insuring,
18 through June 30, 2018, environmental risks from releases
19 from drycleaning facilities within this State as provided
20 by Section 45.

21 (c) The State, the General Revenue Fund, and any other Fund
22 of the State, other than the Drycleaner Environmental Response
23 Trust Fund, shall not be liable for a claim or cause of action
24 in connection with a drycleaning facility not owned or operated
25 by the State or an agency of the State. All expenses incurred
26 by the Fund shall be payable solely from the Fund and no

1 liability or obligation shall be imposed upon the State. The
2 State is not liable for a claim presented against the Fund.

3 (d) The liability of the Fund is limited to the extent of
4 coverage provided by the account under which a claim is
5 submitted, subject to the terms and conditions of that
6 coverage. The liability of the Fund is further limited by the
7 moneys made available to the Fund, and no remedy shall be
8 ordered that would require the Fund to exceed its then current
9 funding limitations to satisfy an award or which would restrict
10 the availability of moneys for higher priority sites.

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

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

17 (415 ILCS 135/15)

18 Sec. 15. Creation of Council.

19 (a) The Drycleaner Environmental Response Trust Fund
20 Council is established and, until July 1, 2018, shall consist
21 of the following voting members to be appointed by the
22 Governor:

23 (1) Four members who own or operate a drycleaning
24 facility. These members shall serve 3 year terms, except
25 that of the initial members appointed, one shall be

1 appointed for a term of one year, one for a term of 2
2 years, and one for a term of 3 years.

3 (2) One member who represents wholesale distributors
4 of drycleaning solvents. This member shall serve for a term
5 of 3 years.

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

9 (4) One member with experience in financial markets or
10 the insurance industry. This member shall serve for a term
11 of 3 years.

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

14 On July 1, 2018, the terms of all members of the Council
15 then serving are ended, and thereafter no members shall be
16 appointed to serve under this subsection (a).

17 (a-5) On and after July 1, 2018, the Drycleaner
18 Environmental Response Trust Fund Council shall consist of the
19 Agency.

20 (b) (Blank). ~~The Governor may remove any member of the~~
21 ~~Council for incompetency, neglect of duty, or malfeasance in~~
22 ~~office after service on him or her of a copy of the written~~
23 ~~charges against him or her and after an opportunity to be~~
24 ~~publicly heard in person or by counsel in his or her own~~
25 ~~defense no earlier than 10 days after the Governor has provided~~
26 ~~notice of the opportunity to the Council member. Evidence of~~

1 ~~incompetency, neglect of duty, or malfeasance in office may be~~
2 ~~provided to the Governor by the Agency or the Auditor General~~
3 ~~following the annual audit described in Section 80.~~

4 (c) ~~(Blank). Members of the Council are entitled to receive~~
5 ~~reimbursement of actual expenses incurred in the discharge of~~
6 ~~their duties within the limit of funds appropriated to the~~
7 ~~Council or made available to the Fund. The Governor shall~~
8 ~~appoint a chairperson of the Council from among the members of~~
9 ~~the Council.~~

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

12 (Source: P.A. 93-201, eff. 1-1-04.)

13 (415 ILCS 135/25)

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

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

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

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

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

6 (4) Grant a lien, pledge, assignment, or other
7 encumbrance on one or more revenues, assets of right,
8 accounts, or funds established or received in connection
9 with the Fund, including revenues derived from fees or
10 taxes collected under this Act.

11 (5) Contract for the acquisition or construction of one
12 or more improvements or parts of one or more improvements
13 or for the leasing, subleasing, sale, or other disposition
14 of one or more improvements in a manner the Council
15 determines.

16 (6) Implement and administer ~~Cooperate with the Agency~~
17 ~~in the implementation and administration of~~ this Act to
18 minimize unnecessary duplication of effort, reporting, or
19 paperwork and to maximize environmental protection within
20 the funding limits of this Act.

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

1 (b) (Blank). ~~The Council shall pre approve, and the~~
2 ~~contracting parties shall seek pre approval for, a contract~~
3 ~~entered into under this Act if the cost of the contract exceeds~~
4 ~~\$75,000. The Council or its designee shall review and approve~~
5 ~~or disapprove all contracts entered into under this Act.~~
6 ~~However, review by the Council or its designee shall not be~~
7 ~~required when an emergency situation exists. All contracts~~
8 ~~entered into by the Council shall be awarded on a competitive~~
9 ~~basis to the maximum extent practical. In those situations~~
10 ~~where it is determined that bidding is not practical, the basis~~
11 ~~for the determination of impracticability shall be documented~~
12 ~~by the Council or its designee.~~

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

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

19 (2) the reduction of risk to human health derived from
20 remedial action compared to the cost of the remedial
21 action;

22 (3) the present and planned uses of the impacted
23 property; and

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

25 (d) The Council shall adopt any rules it deems necessary to
26 administer this Act, including, but not limited to, rules

1 allowing the direct payment from the Fund to a contractor who
2 performs remediation. The rules concerning the direct payment
3 shall include a provision that any applicable deductible must
4 be paid by the drycleaning facility prior to any direct payment
5 from the Fund.

6 (e) The Council may purchase reinsurance coverage to reduce
7 the Fund's potential liability for reimbursement of remedial
8 action costs.

9 (f) The Council may, in accordance with constitutional
10 limitations, enter at all reasonable times upon any private or
11 public property for the purpose of inspecting and investigating
12 to ascertain possible violations of this Act, any rule adopted
13 under this Act, or any Council or court order entered under
14 this Act.

15 (g) The Director of the Agency shall exercise any
16 contractual right of the State to terminate for convenience a
17 contract with a person to act as Administrator of the Fund. If
18 such a contract is terminated, then the Agency shall reimburse
19 the person acting as Administrator of the Fund for expenses the
20 Administrator incurred pursuant to the contract prior to the
21 effective date of the termination.

22 (Source: P.A. 93-201, eff. 1-1-04.)

23 (415 ILCS 135/40)

24 Sec. 40. Remedial action account.

25 (a) The remedial action account is established to provide

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

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

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

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

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

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

26 (2) At the time the release was discovered by the

1 claimant, the claimant and the drycleaning facility were in
2 compliance with the Agency reporting and technical
3 operating requirements.

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

6 (4) (Blank).

7 (5) If the claimant is the owner or operator of an
8 active drycleaning facility, the claimant must ensure that
9 ~~has provided to the Council proof of implementation and~~
10 ~~maintenance of the following pollution prevention~~
11 ~~measures:~~

12 (A) All ~~That all~~ drycleaning solvent wastes
13 generated at the ~~a~~ drycleaning facility be managed in
14 accordance with applicable State waste management laws
15 and rules.

16 (B) There is no ~~A prohibition on the~~ discharge of
17 wastewater from drycleaning machines or of drycleaning
18 solvent from drycleaning operations to a sanitary
19 sewer or septic tank or to the surface or in
20 groundwater.

21 (C) The ~~That every~~ drycleaning facility ~~has:~~ ~~(I)~~
22 ~~install~~ a containment dike or other containment
23 structure around each machine, item of equipment,
24 drycleaning area, and portable waste container in
25 which any drycleaning solvent is utilized, which is
26 ~~shall be~~ capable of containing leaks, spills, or

1 releases of drycleaning solvent from that machine,
2 item, area, or container. The containment dike or other
3 containment structure shall be capable of at least the
4 following: (i) containing a capacity of 110% of the
5 drycleaning solvent in the largest tank or vessel
6 within the machine; (ii) containing 100% of the
7 drycleaning solvent of each item of equipment or
8 drycleaning area; and (iii) containing 100% of the
9 drycleaning solvent of the largest portable waste
10 container or at least 10% of the total volume of the
11 portable waste containers stored within the
12 containment dike or structure, whichever is greater.

13 Petroleum underground storage tank systems
14 that are upgraded in accordance with USEPA upgrade
15 standards pursuant to 40 CFR Part 280 for the tanks
16 and related piping systems and use a leak detection
17 system approved by the USEPA or IEPA are exempt
18 from this secondary containment requirement; and

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

24 (E) All ~~(D) A requirement that all~~ drycleaning
25 solvent ~~is shall be~~ delivered to the drycleaning
26 facility ~~facilities~~ by means of closed, direct-coupled

1 delivery systems.

2 (6) An active drycleaning facility that has
3 maintained, through June 30, 2018, continuous financial
4 assurance for environmental liability coverage in the
5 amount of at least \$500,000 at least since the date of
6 award of benefits under this Section or July 1, 2000,
7 whichever is earlier. An uninsured drycleaning facility
8 that ~~has~~ filed an application for insurance with the Fund
9 by January 1, 2004, obtained insurance through that
10 application, and maintained that insurance coverage
11 continuously through June 30, 2018, shall be considered to
12 have conformed with the requirements of this subdivision
13 (6). To conform with this requirement the applicant must
14 pay the equivalent of the total premiums due for the period
15 beginning June 30, 2000 through the date of application
16 plus a 20% penalty of the total premiums due for that
17 period.

18 (7) The release was discovered on or after July 1, 1997
19 and before July 1, 2006.

20 (d) A claimant must have submitted ~~shall submit~~ a completed
21 application form provided by the Council. The application shall
22 contain documentation of activities, plans, and expenditures
23 associated with the eligible costs incurred in response to a
24 release of drycleaning solvent from a drycleaning facility.
25 Application for remedial action account benefits must have been
26 ~~be~~ submitted to the Council on or before June 30, 2005.

1 (8) The site upon which the drycleaning facility is
2 located is enrolled in the Site Remediation Program established
3 under Title XVII of the Environmental Protection Act.

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

7 (1) If, by January 1, 2008, an eligible claimant
8 submitting a claim for an active drycleaning facility
9 completed site investigation and submitted to the Council a
10 complete remedial action plan for the site, then the An
11 eligible claimant submitting a claim for an active
12 drycleaning facility is responsible for the first \$5,000 of
13 eligible investigation costs and for the first \$10,000 of
14 eligible remedial action costs incurred in connection with
15 the release from the drycleaning facility and is only
16 eligible for reimbursement for costs that exceed those
17 amounts, subject to any other limitations of this Act. Any
18 eligible claimant submitting any other claim for an active
19 drycleaning facility is responsible for the first \$5,000 of
20 eligible investigation costs and for the first \$15,000 of
21 eligible remedial action costs incurred in connection with
22 the release from the drycleaning facility and is only
23 eligible for reimbursement for costs that exceed those
24 amounts, subject to any other limitations of this Act.

25 (2) If, by January 1, 2008, an eligible claimant
26 submitting a claim for an inactive drycleaning facility

1 completed site investigation and submitted to the Council a
2 complete remedial action plan for the site, then the An
3 eligible claimant ~~submitting a claim for an inactive~~
4 ~~drycleaning facility~~ is responsible for the first \$10,000
5 of eligible investigation costs and for the first \$10,000
6 of eligible remedial action costs incurred in connection
7 with the release from that drycleaning facility, and is
8 only eligible for reimbursement for costs that exceed those
9 amounts, subject to any other limitations of this Act. Any
10 other eligible claimant submitting any other claim for an
11 inactive drycleaning facility is responsible for the first
12 \$10,000 of eligible investigation costs and for the first
13 \$15,000 of eligible remedial action costs incurred in
14 connection with the release from the drycleaning facility
15 and is only eligible for reimbursement for costs that
16 exceed those amounts, subject to any other limitations of
17 this Act.

18 (f) Claimants are subject to the following limitations on
19 reimbursement:

20 (1) Subsequent to meeting the deductible requirements
21 of subsection (e), and pursuant to the requirements of
22 Section 75, reimbursement shall not exceed \$300,000 per
23 active drycleaning facility and \$50,000 per inactive
24 drycleaning facility.

25 (2) A contract in which one of the parties to the
26 contract is a claimant, for goods or services that may be

1 payable or reimbursable from the Fund Council, is void and
2 unenforceable unless and until:

3 (A) ~~the Council has found that the~~ contract terms
4 are found by the Council to be within the range of
5 usual and customary rates for similar or equivalent
6 goods or services within this State; ~~and has found that~~

7 (B) the goods or services are found, by the Council
8 to be necessary for the claimant to comply with the
9 rules adopted under this Act ~~Council standards or other~~
10 ~~applicable regulatory standards.~~

11 (3) ~~A claimant may appoint the Council as an agent for~~
12 ~~the purposes of negotiating contracts with suppliers of~~
13 ~~goods or services reimbursable by the Fund.~~ The Council may
14 select another contractor for goods or services other than
15 the one offered by the claimant if the scope of the
16 proposed work or actual work of the claimant's offered
17 contractor does not reflect the quality of workmanship
18 required or if the costs are determined to be excessive, as
19 determined by the Council.

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

23 (5) (Blank). ~~The Council may enter into a contract or~~
24 ~~an exclusive contract with the supplier of goods or~~
25 ~~services required by a claimant or class of claimants, in~~
26 ~~connection with an expense reimbursable from the Fund, for~~

1 ~~a specified good or service at a gross maximum price or~~
2 ~~fixed rate, and may limit reimbursement accordingly.~~

3 (6) Unless emergency conditions exist, a service
4 provider shall obtain the Council's approval of the budget
5 for the remediation work before commencing the work. No
6 expense incurred that is above the budgeted amount shall be
7 paid unless the Council approves the expense prior to its
8 being incurred. All invoices and bills relating to the
9 remediation work shall be submitted with appropriate
10 documentation, as deemed necessary by the Council.

11 (7) Neither the Council nor an eligible claimant is
12 responsible for payment for costs incurred that have not
13 been previously approved by the Council, unless an
14 emergency exists.

15 (8) The Council may determine the usual and customary
16 costs of each item for which reimbursement may be awarded
17 under this Section. The Council may revise the usual and
18 customary costs from time to time as necessary, but costs
19 submitted for reimbursement shall be subject to the rates
20 in effect at the time the costs were incurred.

21 (9) If a claimant has pollution liability insurance
22 coverage ~~other than coverage provided by the insurance~~
23 ~~account under this Act~~, that coverage shall be primary.
24 Reimbursement from the remedial action account shall be
25 limited to the deductible amounts under the primary
26 coverage and the amount that exceeds the policy limits of

1 the primary coverage, subject to the deductible amounts
2 established under ~~of~~ this Act. ~~If there is a dispute~~
3 ~~between the claimant and the primary insurance provider,~~
4 ~~reimbursement from the remedial action account may be made~~
5 ~~to the claimant after the claimant assigns all of his or~~
6 ~~her interests in the insurance coverage to the Council.~~

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

10 (h) A drycleaning facility will be classified as active or
11 inactive for purposes of determining benefits under this
12 Section based on the status of the facility on the date a claim
13 is filed.

14 (i) Eligible claimants shall conduct remedial action in
15 accordance with Title XVII of ~~the Site Remediation Program~~
16 ~~under~~ the Environmental Protection Act and rules adopted under
17 that Act ~~Part 740 of Title 35 of the Illinois Administrative~~
18 ~~Code and the Tiered Approach to Cleanup Objectives under Part~~
19 ~~742 of Title 35 of the Illinois Administrative Code.~~

20 (j) (Blank). ~~Effective January 1, 2012, an active~~
21 ~~drycleaning facility that has previously received or is~~
22 ~~currently receiving reimbursement for the costs of a remedial~~
23 ~~action, as defined in this Act, shall maintain continuous~~
24 ~~financial assurance for environmental liability coverage in~~
25 ~~the amount of at least \$500,000 until the earlier of (i)~~
26 ~~January 1, 2020 or (ii) the date the Council determines the~~

1 ~~drycleaning facility is an inactive drycleaning facility.~~
2 ~~Failure to comply with this requirement will result in the~~
3 ~~revocation of the drycleaning facility's existing license and~~
4 ~~in the inability of the drycleaning facility to obtain or renew~~
5 ~~a license under Section 60 of this Act.~~

6 (Source: P.A. 96-774, eff. 1-1-10; 97-377, eff. 1-1-12.)

7 (415 ILCS 135/50)

8 Sec. 50. Cost recovery; enforcement.

9 (a) The Council may seek recovery from a potentially
10 responsible party liable for a release that is the subject of a
11 remedial action and for which the Fund has expended moneys for
12 remedial action. The amount of recovery sought by the Council
13 shall be equal to all moneys expended by the Fund for and in
14 connection with the remediation, including but not limited to, l
15 reasonable attorney's ~~attorneys~~ fees and costs of litigation
16 expended by the Fund in connection with the release.

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

18 (1) The Council shall not seek recovery for expenses in
19 connection with remedial action for a release from a
20 claimant eligible for reimbursement except for any unpaid
21 portion of the deductible.

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

1 (c) Notwithstanding subsection (b), the liability of a
2 claimant to the Fund shall be the total costs of remedial
3 action incurred by the Fund, as specified in subsection (a), if
4 the claimant has not complied with the Environmental Protection
5 Act ~~and its rules or with this Act, or and its rules~~ adopted
6 under either Act.

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

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

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

1 (g) Any cost recovery action commenced before July 1, 2018,
2 by the Council, under this Section, may be prosecuted or
3 continued by the Attorney General in the name of the State on
4 and after that date.

5 (h) All costs recovered under this Section shall deposited
6 into the Fund.

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

8 (415 ILCS 135/60)

9 (Section scheduled to be repealed on January 1, 2020)

10 Sec. 60. Drycleaning facility license.

11 (a) ~~No~~ ~~On and after January 1, 1998,~~ no person shall
12 operate a drycleaning facility in this State without a license
13 issued by the Council.

14 (b) The Council shall issue an initial or renewal license
15 to a drycleaning facility on submission by an applicant of a
16 completed form prescribed by the Council, and proof of payment
17 of the required fee to the Department of Revenue, ~~and, if the~~
18 ~~drycleaning facility has previously received or is currently~~
19 ~~receiving reimbursement for the costs of a remedial action, as~~
20 ~~defined in this Act, proof of compliance with subsection (j) of~~
21 ~~Section 40. License~~ Beginning January 1, 2013, license renewal
22 application forms must include a certification by the
23 applicant:

24 (1) that all hazardous waste stored at the drycleaning
25 facility is stored in accordance with all applicable

1 federal and state laws and regulations; ~~and~~

2 (2) that all hazardous waste transported from the
3 drycleaning facility is transported in accordance with all
4 applicable federal and state laws and regulations; and

5 (3) that, during the immediately preceding 4 years, the
6 applicant has obtained a minimum of 4 hours of drycleaning
7 continuing education credits from an industry-recognized
8 education provider, at least 2 hours of which addressed
9 environmentally related topics, such as proper solvent
10 storage and handling, hazardous waste management,
11 environmental compliance, non-solvent cleaning, site
12 remediation, site remedial action planning, and Fund
13 eligibility and reimbursement. Also, beginning January 1,
14 2013, license renewal applications must include copies of
15 all manifests for hazardous waste transported from the
16 drycleaning facility during the previous 12 months or since
17 the last submission of copies of manifests, whichever is
18 longer. If the Council does not receive a copy of a
19 manifest for a drycleaning facility within a 3 year period,
20 or within a shorter period as determined by the Council,
21 the Council shall make appropriate inquiry into the
22 management of hazardous waste at the facility and may share
23 the results of the inquiry with the Agency.

24 (c) ~~The~~ On or after January 1, 2004, the annual fees for
25 licensure are as follows:

26 (1) \$1,500 ~~\$500~~ for a facility that uses (i) 50 gallons

1 or less of chlorine-based or green drycleaning solvents
2 annually, (ii) 250 or less gallons annually of
3 hydrocarbon-based drycleaning solvents in a drycleaning
4 machine equipped with a solvent reclaimer, or (iii) 500
5 gallons or less annually of hydrocarbon-based drycleaning
6 solvents in a drycleaning machine without a solvent
7 reclaimer.

8 (2) \$2,250 ~~\$500~~ for a facility that uses (i) more than
9 50 gallons but not more than 100 gallons of chlorine-based
10 or green drycleaning solvents annually, (ii) more than 250
11 gallons but not more 500 gallons annually of
12 hydrocarbon-based solvents in a drycleaning machine
13 equipped with a solvent reclaimer, or (iii) more than 500
14 gallons but not more than 1,000 gallons annually of
15 hydrocarbon-based drycleaning solvents in a drycleaning
16 machine without a solvent reclaimer.

17 (3) \$3,000 ~~\$500~~ for a facility that uses (i) more than
18 100 gallons but not more than 150 gallons of chlorine-based
19 or green drycleaning solvents annually, (ii) more than 500
20 gallons but not more than 750 gallons annually of
21 hydrocarbon-based solvents in a drycleaning machine
22 equipped with a solvent reclaimer, or (iii) more than 1,000
23 gallons but not more than 1,500 gallons annually of
24 hydrocarbon-based drycleaning solvents in a drycleaning
25 machine without a solvent reclaimer.

26 (4) \$3,750 ~~\$1,000~~ for a facility that uses (i) more

1 than 150 gallons but not more than 200 gallons of
2 chlorine-based or green drycleaning solvents annually,
3 (ii) more than 750 gallons but not more than 1,000 gallons
4 annually of hydrocarbon-based solvents in a drycleaning
5 machine equipped with a solvent reclaimer, or (iii) more
6 than 1,500 gallons but not more than 2,000 gallons annually
7 of hydrocarbon-based drycleaning solvents in a drycleaning
8 machine without a solvent reclaimer.

9 (5) \$4,500 ~~\$1,000~~ for a facility that uses (i) more
10 than 200 gallons but not more than 250 gallons of
11 chlorine-based or green drycleaning solvents annually,
12 (ii) more than 1,000 gallons but not more than 1,250
13 gallons annually of hydrocarbon-based solvents in a
14 drycleaning machine equipped with a solvent reclaimer, or
15 (iii) more than 2,000 gallons but not more than 2,500
16 gallons annually of hydrocarbon-based drycleaning solvents
17 in a drycleaning machine without a solvent reclaimer.

18 (6) \$5,000 ~~\$1,000~~ for a facility that uses (i) more
19 than 250 gallons but not more than 300 gallons of
20 chlorine-based or green drycleaning solvents annually,
21 (ii) more than 1,250 gallons but not more than 1,500
22 gallons annually of hydrocarbon-based solvents in a
23 drycleaning machine equipped with a solvent reclaimer, or
24 (iii) more than 2,500 gallons but not more than 3,000
25 gallons annually of hydrocarbon-based drycleaning solvents
26 in a drycleaning machine without a solvent reclaimer.

1 (7) \$5,000 ~~\$1,000~~ for a facility that uses (i) more
2 than 300 gallons but not more than 350 gallons of
3 chlorine-based or green drycleaning solvents annually,
4 (ii) more than 1,500 gallons but not more than 1,750
5 gallons annually of hydrocarbon-based solvents in a
6 drycleaning machine equipped with a solvent reclaimer, or
7 (iii) more than 3,000 gallons but not more than 3,500
8 gallons annually of hydrocarbon-based drycleaning solvents
9 in a drycleaning machine without a solvent reclaimer.

10 (8) \$5,000 ~~\$1,500~~ for a facility that uses (i) more
11 than 350 gallons but not more than 400 gallons of
12 chlorine-based or green drycleaning solvents annually,
13 (ii) more than 1,750 gallons but not more than 2,000
14 gallons annually of hydrocarbon-based solvents in a
15 drycleaning machine equipped with a solvent reclaimer, or
16 (iii) more than 3,500 gallons but not more than 4,000
17 gallons annually of hydrocarbon-based drycleaning solvents
18 in a drycleaning machine without a solvent reclaimer.

19 (9) \$5,000 ~~\$1,500~~ for a facility that uses (i) more
20 than 400 gallons but not more than 450 gallons of
21 chlorine-based or green drycleaning solvents annually,
22 (ii) more than 2,000 gallons but not more than 2,250
23 gallons annually of hydrocarbon-based solvents in a
24 drycleaning machine equipped with a solvent reclaimer, or
25 (iii) more than 4,000 gallons but not more than 4,500
26 gallons annually of hydrocarbon-based drycleaning solvents

1 in a drycleaning machine without a solvent reclaimer.

2 (10) \$5,000 ~~\$1,500~~ for a facility that uses (i) more
3 than 450 gallons but not more than 500 gallons of
4 chlorine-based or green drycleaning solvents annually,
5 (ii) more than 2,250 gallons but not more than 2,500
6 gallons annually of hydrocarbon-based solvents used in a
7 drycleaning machine equipped with a solvent reclaimer, or
8 (iii) more than 4,500 gallons but not more than 5,000
9 gallons annually of hydrocarbon-based drycleaning solvents
10 in a drycleaning machine without a solvent reclaimer.

11 (11) \$5,000 ~~\$1,500~~ for a facility that uses (i) more
12 than 500 gallons but not more than 550 gallons of
13 chlorine-based or green drycleaning solvents annually,
14 (ii) more than 2,500 gallons but not more than 2,750
15 gallons annually of hydrocarbon-based solvents in a
16 drycleaning machine equipped with a solvent reclaimer, or
17 (iii) more than 5,000 gallons but not more than 5,500
18 gallons annually of hydrocarbon-based drycleaning solvents
19 in a drycleaning machine without a solvent reclaimer.

20 (12) \$5,000 ~~\$1,500~~ for a facility that uses (i) more
21 than 550 gallons but not more than 600 gallons of
22 chlorine-based or green drycleaning solvents annually,
23 (ii) more than 2,750 gallons but not more than 3,000
24 gallons annually of hydrocarbon-based solvents in a
25 drycleaning machine equipped with a solvent reclaimer, or
26 (iii) more than 5,500 gallons but not more than 6,000

1 gallons annually of hydrocarbon-based drycleaning solvents
2 in a drycleaning machine without a solvent reclaimer.

3 (13) \$5,000 ~~\$1,500~~ for a facility that uses (i) more
4 than 600 gallons of chlorine-based or green drycleaning
5 solvents annually, (ii) more than 3,000 gallons but not
6 more than 3,250 gallons annually of hydrocarbon-based
7 solvents in a drycleaning machine equipped with a solvent
8 reclaimer, or (iii) more than 6,000 gallons of
9 hydrocarbon-based drycleaning solvents annually in a
10 drycleaning machine equipped without a solvent reclaimer.

11 (14) \$5,000 ~~\$1,500~~ for a facility that uses more than
12 3,250 gallons but not more than 3,500 gallons annually of
13 hydrocarbon-based solvents in a drycleaning machine
14 equipped with a solvent reclaimer.

15 (15) \$5,000 ~~\$1,500~~ for a facility that uses more than
16 3,500 gallons but not more than 3,750 gallons annually of
17 hydrocarbon-based solvents used in a drycleaning machine
18 equipped with a solvent reclaimer.

19 (16) \$5,000 ~~\$1,500~~ for a facility that uses more than
20 3,750 gallons but not more than 4,000 gallons annually of
21 hydrocarbon-based solvents in a drycleaning machine
22 equipped with a solvent reclaimer.

23 (17) \$5,000 ~~\$1,500~~ for a facility that uses more than
24 4,000 gallons annually of hydrocarbon-based solvents in a
25 drycleaning machine equipped with a solvent reclaimer.

26 For purpose of this subsection, the quantity of drycleaning

1 solvents used annually shall be determined as follows:

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

7 (2) in the case of a renewal applicant, the quantity of
8 drycleaning solvents actually purchased in the preceding
9 license year.

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

13 (d) Except as otherwise modified by Council rules, a A
14 license issued under this Section shall expire one year after
15 the date of issuance and may be renewed on reapplication to the
16 Council and submission of proof of payment of the appropriate
17 fee to the Department of Revenue in accordance with subsections
18 (c) and (e). ~~At least 30 days before payment of a renewal~~
19 ~~licensing fee is due, the Council shall attempt to:~~

20 ~~(1) notify the operator of each licensed drycleaning~~
21 ~~facility concerning the requirements of this Section; and~~

22 ~~(2) submit a license fee payment form to the licensed~~
23 ~~operator of each drycleaning facility.~~

24 (e) An operator of a drycleaning facility shall submit the
25 appropriate application form provided by the Council with the
26 license fee in the form of cash, credit card, business check,

1 or guaranteed remittance to the Department of Revenue. The
2 Department may accept payment of the license fee under this
3 Section by credit card only if the Department is not required
4 to pay a discount fee charged by the credit card issuer. The
5 license fee payment form and the actual license fee payment
6 shall be administered by the Department of Revenue under rules
7 adopted by that Department.

8 (f) The Department of Revenue shall issue a proof of
9 payment receipt to each operator of a drycleaning facility who
10 has paid the appropriate fee in cash or by guaranteed
11 remittance, credit card, or business check. However, the
12 Department of Revenue shall not issue a proof of payment
13 receipt to a drycleaning facility that is liable to the
14 Department of Revenue for a tax imposed under this Act. The
15 original receipt shall be presented to the Council by the
16 operator of a drycleaning facility.

17 (g) (Blank).

18 (h) The Council and the Department of Revenue may adopt
19 rules as necessary to administer the licensing requirements of
20 this Act, including, but not limited to, rules authorizing the
21 issuance of multi-year licenses.

22 (Source: P.A. 96-774, eff. 1-1-10; 97-332, eff. 8-12-11;
23 97-377, eff. 1-1-12; 97-663, eff. 1-13-12; 97-813, eff.
24 7-13-12; 97-1057, eff. 1-1-13.)

1 (Section scheduled to be repealed on January 1, 2020)

2 Sec. 65. Drycleaning solvent tax.

3 (a) ~~A~~ ~~On and after January 1, 1998,~~ a tax is hereby imposed
4 upon the use of drycleaning solvent by a person engaged in the
5 business of operating a drycleaning facility in this State at
6 the rate of \$10 ~~\$3.50~~ per gallon of perchloroethylene or other
7 chlorinated drycleaning solvents used in drycleaning
8 operations, \$2 ~~\$0.35~~ per gallon of petroleum-based drycleaning
9 solvent, and \$1.75 per gallon of green solvents, unless the
10 green solvent is used at a virgin facility, in which case the
11 rate is \$0.35 per gallon. The Council shall determine by rule
12 which products are chlorine-based solvents, which products are
13 petroleum-based solvents, and which products are green
14 solvents. All drycleaning solvents shall be considered
15 chlorinated solvents unless the Council determines that the
16 solvents are petroleum-based drycleaning solvents or green
17 solvents.

18 (b) The tax imposed by this Act shall be collected from the
19 purchaser at the time of sale by a seller of drycleaning
20 solvents maintaining a place of business in this State and
21 shall be remitted to the Department of Revenue under the
22 provisions of this Act.

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

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

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

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

9 (3) one of the following:

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

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

14 (e) On January 1, 1998, there is imposed on each operator
15 of a drycleaning facility a tax on drycleaning solvent held by
16 the operator on that date for use in a drycleaning facility.
17 The tax imposed shall be the tax that would have been imposed
18 under subsection (a) if the drycleaning solvent held by the
19 operator on that date had been purchased by the operator during
20 the first year of this Act.

21 (f) On or before the 25th day of the 1st month following
22 the end of the calendar quarter, a seller of drycleaning
23 solvents who has collected a tax pursuant to this Section
24 during the previous calendar quarter, or a purchaser or end
25 user of drycleaning solvents required under subsection (c) to
26 submit the tax directly to the Department, shall file a return

1 with the Department of Revenue. The return shall be filed on a
2 form prescribed by the Department of Revenue and shall contain
3 information that the Department of Revenue reasonably
4 requires, but at a minimum will require the reporting of the
5 volume of drycleaning solvent sold to each licensed drycleaner.
6 The Department of Revenue shall report quarterly to the Council
7 the volume of drycleaning solvent purchased for the quarter by
8 each licensed drycleaner. Each seller of drycleaning solvent
9 maintaining a place of business in this State who is required
10 or authorized to collect the tax imposed by this Act shall pay
11 to the Department the amount of the tax at the time when he or
12 she is required to file his or her return for the period during
13 which the tax was collected. Purchasers or end users remitting
14 the tax directly to the Department under subsection (c) shall
15 file a return with the Department of Revenue and pay the tax so
16 incurred by the purchaser or end user during the preceding
17 calendar quarter.

18 Except as provided in this Section, the seller of
19 drycleaning solvents filing the return under this Section
20 shall, at the time of filing the return, pay to the Department
21 the amount of tax imposed by this Act less a discount of 1.75%,
22 or \$5 per calendar year, whichever is greater. Failure to
23 timely file the returns and provide to the Department the data
24 requested under this Act will result in disallowance of the
25 reimbursement discount.

26 (g) The tax on drycleaning solvents used in drycleaning

1 facilities and the floor stock tax shall be administered by
2 Department of Revenue under rules adopted by that Department.

3 (h) On and after January 1, 1998, no person shall knowingly
4 sell or transfer drycleaning solvent to an operator of a
5 drycleaning facility that is not licensed ~~by the Council~~ under
6 Section 60.

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

9 (Source: P.A. 96-774, eff. 1-1-10.)

10 (415 ILCS 135/69)

11 Sec. 69. Civil penalties.

12 (a) Except as otherwise provided in this Section, any
13 person who violates any provision of this Act, ~~or any rule~~
14 adopted under this Act ~~regulation adopted by the Council~~, or
15 any license or registration or term or condition thereof, or
16 that violates any Council or court order entered pursuant to ~~of~~
17 ~~the Council under~~ this Act, shall be liable for a civil penalty
18 as provided in this Section. The penalties may, upon order of
19 the Council or a court of competent jurisdiction, be made
20 payable to the Drycleaner Environmental Response Trust Fund, to
21 be used in accordance with the provisions of the Drycleaner
22 Environmental Response Trust Fund Act.

23 (b) Notwithstanding the provisions of subsection (a) of
24 this Section:

25 (1) Any person who violates subsection (a) of Section

1 60 of this Act by failing to pay the license fee when due
2 may be assessed a civil penalty of \$5 per day for each day
3 after the license fee is due until the license fee is paid.
4 The penalty shall be effective for license fees due on or
5 after July 1, 1999 and before June 30, 2011. For license
6 fees due on or after July 1, 2011, any person who violates
7 subsection (a) of Section 60 of this Act by failing to pay
8 the license fee when due may be assessed a civil penalty,
9 beginning on the 31st day after the license fee is due, in
10 the following amounts: (i) beginning on the 31st day after
11 the license fee is due and until the 60th day after the
12 license fee is due, \$3 for each day during which the
13 license fee is not paid and (ii) beginning on the 61st day
14 after the license fee is due and until the license fee is
15 paid, \$5 for each day during which the license fee is not
16 paid.

17 (2) Any person who violates subsection (d) or (h) of
18 Section 65 of this Act shall be liable for a civil penalty
19 not to exceed \$500 for the first violation and a civil
20 penalty not to exceed \$5,000 for a second or subsequent
21 violation.

22 (3) Any person who violates Section 67 of this Act
23 shall be liable for a civil penalty not to exceed \$100 per
24 day for each day the person is not registered to sell
25 drycleaning solvents.

26 (c) (Blank). ~~The Council shall issue an administrative~~

1 ~~assessment setting forth any penalties it imposes under~~
2 ~~subsection (b) of this Section and shall serve notice of the~~
3 ~~assessment upon the party assessed. The Council's~~
4 ~~determination shall be deemed correct and shall serve as~~
5 ~~evidence of the correctness of the Council's determination that~~
6 ~~a penalty is due. Proof of a determination by the Council may~~
7 ~~be made at any administrative hearing or in any legal~~
8 ~~proceeding by a reproduced copy or computer print out of the~~
9 ~~Council's record relating thereto in the name of the Council~~
10 ~~under the certificate of the Council.~~

11 ~~If reproduced copies of the Council's records are offered~~
12 ~~as proof of a penalty assessment, the Council must certify that~~
13 ~~those copies are true and exact copies of records on file with~~
14 ~~the Council. If computer print outs of the Council's records~~
15 ~~are offered as proof of a determination, the Council Chairman~~
16 ~~must certify that those computer print outs are true and exact~~
17 ~~representations of records properly entered into standard~~
18 ~~electronic computing equipment, in the regular course of the~~
19 ~~Council's business, at or reasonably near the time of the~~
20 ~~occurrence of the facts recorded, from trustworthy and reliable~~
21 ~~information. A certified reproduced copy or certified computer~~
22 ~~print out shall, without further proof, be admitted into~~
23 ~~evidence in any administrative or legal proceeding and is prima~~
24 ~~facie proof of the correctness of the Council's determination.~~

25 ~~Whenever notice is required by this Section, the notice may~~
26 ~~be given by United States registered or certified mail,~~

1 ~~addressed to the person concerned at his last known address,~~
2 ~~and proof of mailing shall be sufficient for the purposes of~~
3 ~~this Act. Notice of any hearing provided for by this Act shall~~
4 ~~be given not less than 7 days before the day fixed for the~~
5 ~~hearing. Following the initial contact of a person represented~~
6 ~~by an attorney, the Council shall not contact that person but~~
7 ~~shall only contact the attorney representing that person.~~

8 (d) The penalties provided for in this Section may be
9 recovered in a civil action instituted by the Attorney General
10 in the name of the people of the State of Illinois.

11 (e) The Attorney General may also, at the request of the
12 Council, the Department of Revenue, or on his or her own
13 motion, institute a civil action for an injunction, prohibitory
14 or mandatory, to restrain violations of this Act, any rule or
15 regulation adopted under this Act, any license or registration
16 or term or condition of a license or registration, or any
17 Council or court order entered under this Act, or to require
18 other actions as may be necessary to address violations
19 thereof.

20 (f) Without limiting any other authority which may exist
21 for the awarding of attorney's fees and costs, ~~the Council, or~~
22 a court of competent jurisdiction, may award costs and
23 reasonable attorney's fees, including the reasonable costs of
24 expert witnesses and consultants, to the Attorney General in a
25 case where the Attorney General has prevailed against a person
26 who has committed a willful, knowing, or repeated violation of

1 this Act, any rule or regulation adopted under this Act, any
2 license or registration or term or condition of a license or
3 registration, or any Council or court order entered under this
4 Act. Any funds collected under this subsection (f) in which the
5 Attorney General has prevailed shall be deposited in the
6 Drycleaner Environmental Response Trust Fund created in
7 Section 10 of this Act.

8 (g) All final orders imposing civil penalties under this
9 Section shall prescribe the time for payment of the penalties.
10 If any penalty is not paid within the time prescribed, interest
11 on the penalty shall be paid, at the rate set forth in Section
12 3-2 of the Illinois Uniform Penalty and Interest Act, for the
13 period from the date payment is due until the date payment is
14 received. However, if the time for payment is stayed during the
15 pendency of an appeal, interest shall not accrue during the
16 stay.

17 (Source: P.A. 96-774, eff. 1-1-10; 97-332, eff. 8-12-11.)

18 (415 ILCS 135/69.5 new)

19 Sec. 69.5. Criminal penalties. In addition to all other
20 civil and criminal penalties provided by law, any person who
21 knowingly makes to the Council an oral or written statement
22 that is false, fictitious, or fraudulent and that is materially
23 related to or required by this Act or any rule adopted under
24 this Act commits a Class 4 felony, and each such statement
25 shall be considered a separate Class 4 felony. A person who,

1 after being convicted under this Section, violates this Section
2 a second or subsequent time, commits a Class 3 felony

3 (415 ILCS 135/75)

4 Sec. 75. Adjustment of fees and taxes. Beginning January 1,
5 2000, and annually after that date through June 30, 2018, the
6 Council shall adjust the copayment obligation of subsection (e)
7 of Section 40, the drycleaning solvent taxes of Section 65, the
8 license fees of Section 60, or any combination of adjustment of
9 each, after notice and opportunity for public comment, in a
10 manner determined necessary and appropriate to ensure
11 viability of the Fund and to encourage the owner or operator of
12 a drycleaning facility to use green solvents. Viability of the
13 Fund shall consider the settlement of all current claims
14 subject to prioritization of benefits under subsection (c) of
15 Section 25, consistent with the purposes of this Act.

16 (Source: P.A. 93-201, eff. 1-1-04.)

17 (415 ILCS 135/80)

18 Sec. 80. Audits and reports.

19 (a) The accounts, books, and other financial records of the
20 Council, including but not limited to its receipts,
21 disbursements, contracts, and other matters relating to its
22 finance, operation, and affairs, shall be examined and audited
23 together with those of the Agency annually by the Auditor
24 General in accordance with the audit standards under the

1 ~~Illinois State Auditing Act. This audit shall be provided to~~
2 ~~the Agency for review.~~

3 (b) Upon request by the Auditor General, the Council shall
4 retain a firm of certified public accountants to examine and
5 audit the Council as described in subsection (a) on behalf of
6 the Auditor General.

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

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

12 (415 ILCS 135/85)

13 Sec. 85. Repeal of fee and tax provisions. Sections 60 and
14 65 of this Act are repealed on January 1, 2030 ~~2020~~.

15 (Source: P.A. 93-201, eff. 1-1-04.)

16 (415 ILCS 135/86 new)

17 Sec. 86. Review of final Council decisions.

18 (a) This Section applies to all final Council decisions
19 regarding reimbursement from the Fund and all final Council
20 decisions concerning the classification of drycleaning
21 solvents under this Act. Final administrative decisions made
22 under this Act are subject to review in accordance with the law
23 in effect at the time of the decision, except that the Director
24 of the Agency shall conduct reviews to be performed by the

1 Administrator of the Fund and the review of decisions of the
2 Council and decisions of administrative law judges of the
3 Council shall be conducted in accordance with the
4 Administrative Review Law.

5 (b) A request for reconsideration of any final Council
6 decision regarding reimbursement from the Fund or concerning
7 the classification of drycleaning solvents under this Act may
8 be filed with the Director of the Agency within 60 days after
9 the date of the Council's decision. Any decision by the
10 Director of the Agency pursuant to this Section is subject to
11 judicial review in accordance with the Administrative Review
12 Law.

13 Proceedings for the judicial review of final
14 administrative decisions of the Director of the Agency under
15 this Section shall be conducted in accordance with the
16 Administrative Review Law and this Act.

17 Venue for an administrative review action under this
18 Section shall be proper in the Circuit Court of the county
19 where the plaintiff has its principal place of business, or
20 Sangamon County if the plaintiff's principal place of business
21 is located outside Illinois.

22 Section 15. The Drycleaner Environmental Response Trust
23 Fund Act is amended by changing Section 45 as follows:

24 (415 ILCS 135/45)

1 Sec. 45. Insurance account.

2 (a) The insurance account shall offer financial assurance
3 for claims arising before July 1, 2018, by a qualified owner or
4 operator of a drycleaning facility under the terms and
5 conditions provided for under this Section. Coverage may be
6 provided to either the owner or the operator of a drycleaning
7 facility. The Council is not required to resolve whether the
8 owner or operator, or both, are responsible for a release under
9 the terms of an agreement between the owner and operator.

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

12 (1) moneys ~~Moneys~~ appropriated to the Council or moneys
13 allocated to the insurance account by the Council according
14 to the Fund budget approved by the Council.

15 (2) moneys ~~Moneys~~ collected as an insurance premium,
16 including service fees, if any.

17 (3) investment ~~Investment~~ income attributed to the
18 insurance account ~~by the Council~~.

19 (c) Until the effective date of the changes made to this
20 Section by this amendatory Act of the 100th General Assembly,
21 an ~~An~~ owner or operator may purchase coverage of up to \$500,000
22 per drycleaning facility subject to the terms and conditions
23 under this Section and those adopted by the Council. Coverage
24 shall be limited to remedial action costs associated with soil
25 and groundwater contamination resulting from a release of
26 drycleaning solvent at an insured drycleaning facility,

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

4 (d) Until the effective date of the changes made to this
5 Section by this amendatory Act of the 100th General Assembly,
6 an ~~An~~ owner or operator, subject to underwriting requirements
7 and terms and conditions deemed necessary and convenient by the
8 Council, may purchase insurance coverage from the insurance
9 account provided that the drycleaning facility to be insured
10 meets the following conditions:

11 (1) a site investigation designed to identify soil and
12 groundwater contamination resulting from the release of a
13 drycleaning solvent has been completed. The Council shall
14 determine if the site investigation is adequate. This
15 investigation must be completed by June 30, 2006. For
16 drycleaning facilities that apply for insurance coverage
17 after June 30, 2006, the site investigation must be
18 completed prior to issuance of insurance coverage; and

19 (2) the drycleaning facility is participating in and
20 meets all requirements of a drycleaning compliance program
21 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, 2000,
24 \$250 per drycleaning facility.

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

1 (3) For the year July 1, 2001 through June 30, 2002,
2 \$500 per drycleaning facility.

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

5 (5) For each subsequent State fiscal year through the
6 State fiscal year ending June 30, 2018 ~~For subsequent~~
7 ~~years~~, an owner or operator applying for coverage shall pay
8 an annual actuarially-sound insurance premium for coverage
9 by the insurance account. The Council may approve Fund
10 coverage through the payment of a premium established on an
11 actuarially-sound basis, taking into consideration the
12 risk to the insurance account presented by the insured.
13 Risk factor adjustments utilized to determine
14 actuarially-sound insurance premiums should reflect the
15 range of risk presented by the variety of drycleaning
16 systems, monitoring systems, drycleaning volume, risk
17 management practices, and other factors as determined by
18 the Council. As used in this item, "actuarially sound" is
19 not limited to Fund premium revenue equaling or exceeding
20 Fund expenditures for the general drycleaning facility
21 population. Actuarially-determined premiums shall be
22 published at least 180 days prior to the premiums becoming
23 effective.

24 (e-5) If an insurer sends a second notice to an owner or
25 operator demanding immediate payment of a past-due premium for
26 insurance services provided pursuant to this Act, the demand

1 for payment must offer a grace period of not less than 30 days
2 during which the owner or operator shall be allowed to pay any
3 premiums due. If payment is made during that period, coverage
4 under this Act shall not be terminated for non-payment by the
5 insurer.

6 (e-6) If an insurer terminates an owner or operator's
7 coverage under this Act, the insurer must send a written notice
8 to the owner or operator to inform him or her of the
9 termination of that coverage, and that notice must include
10 instructions on how to seek reinstatement of coverage, as well
11 as information concerning any premiums or penalties that might
12 be due.

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

16 (g) Any ~~The~~ insurance coverage offered under this Section
17 shall be provided with a \$10,000 deductible policy.

18 (g-5) Claims on the insurance account that arise before
19 January 1, 2018 must be submitted to the Council or
20 Administrator of the Fund by no later than February 1, 2018.
21 Claims on the insurance account that arise on or after January
22 1, 2018 must be submitted to the Council or Administrator of
23 the Fund within 30 days after the claim arises. The Council
24 shall render decisions on submitted claims on the insurance
25 account within 30 days after their receipt.

26 (h) A future repeal of this Section shall not terminate the

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

13 (Source: P.A. 98-327, eff. 8-13-13.)

14 Section 99. Effective date. This Act takes effect on July
15 1, 2018, except that this Section and Sections 5 and 15 take
16 effect upon becoming law."