

AN ACT concerning safety.

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

Section 1. Legislative findings. In 1997, Public Act 90-502 established the Drycleaner Environmental Response Trust Fund (Trust Fund) in response to requests by operators of retail drycleaning facilities to have financial resources available to pay for the cleanup of spills and leaks from drycleaning machines and solvent storage units.

The purpose of the Trust Fund is to pay for the remediation of soil and groundwater contamination at both inactive and active drycleaner sites, as well as prevent future spills and leaks of drycleaning solvent.

The Trust Fund consists of three primary programs: a licensing program, an insurance program, and a remedial program.

The Trust Fund is financed by an annual license fee on active drycleaning facilities; a solvent fee tax charged on each gallon of drycleaning solvent purchased; and insurance premiums for pollution liability insurance coverage.

A private company currently provides third-party administrative services for the Trust Fund, including, but not limited to: receiving and processing license applications, receiving and processing applications for insurance coverage,

receiving and processing claims, and furnishing other accounting and record-keeping services.

Over the course of its operation, the Trust Fund has paid over \$31 million for remedial action and insurance claims.

The Trust Fund currently has a backlog of unpaid claims totaling \$27 million.

There are approximately 230 sites that still need to be remediated using moneys in the Trust Fund.

Under the current system, the Trust Fund's existing funding sources will not be sufficient to keep up with projected costs and remedial action and insurance claims; thereby increasing the potential for drycleaning solvent releases to impact a larger number of drinking water supplies and threatening many others across the State.

The most recent estimate of reimbursement fund balance reveals the Trust Fund is projected to have a deficit of \$14 million by its sunset date of January 1, 2020.

Most drycleaners are small, independently-owned businesses, and if the Trust Fund is not solvent, drycleaners may not be able to remediate solvent releases in a responsible manner.

The General Assembly finds that it is necessary to form a Task Force to study the resource challenges and implementation issues that the Trust Fund currently faces.

Section 5. The Drycleaner Environmental Response Trust

Fund Act is amended by changing Section 45 and by adding Section 27 as follows:

(415 ILCS 135/27 new)

Sec. 27. Drycleaner Environmental Response Trust Fund Task Force.

(a) There is created the Drycleaner Environmental Response Trust Fund Task Force ("Task Force"). The Task Force shall study the resource challenges and implementation issues that the Fund faces and make recommendations for adequately funding the Fund and for refining and improving the goals and implementation of the Trust Fund program. In conducting the study of the Trust Fund program, the Task Force shall consider appropriate changes to the existing program, including, but not limited to, the following: administration of the program, program eligibility, program goals, fee structures, administrative expenses, licensing requirements, benefits for participation, compliance assurance and continuing education standards, and sunset date.

(b) The Council shall be composed of the following members:

(1) Two members appointed by the Speaker of the House, one of whom shall be designated as co-chairperson of the Task Force;

(2) Two members appointed by the Minority Leader of the House;

(3) Two members appointed by the President of the

Senate, one of whom shall be designated as co-chairperson of the Task Force;

(4) Two members appointed by the Minority Leader of the Senate;

(5) Seven members appointed by the Governor to represent the dry cleaning industry, including two members who represent a statewide dry cleaners' organization, three members who represent regional or major metropolitan dry cleaning associations, and two members representing an in-state wholesale distributor of dry cleaning agents;

(6) One person appointed by the Governor to represent the Drycleaner Environmental Response Trust Fund Council;  
and

(7) The Director of the Illinois Environmental Protection Agency, or his or her designee.

(c) The members of the Task Force shall serve without compensation.

(d) The Illinois Environmental Protection Agency shall provide administrative support to the Task Force.

(e) In making its determinations, the Task Force must hold at least 3 public meetings in 3 separate metropolitan areas of the State.

(f) The Task Force shall submit a report of its findings and recommendations, which shall include proposed legislation, to the Governor and to the General Assembly by no later than December 31, 2014.

(g) This Section is repealed on January 1, 2016.

(415 ILCS 135/45)

Sec. 45. Insurance account.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) For the year July 1, 2001 through June 30, 2002,

\$500 per drycleaning facility.

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

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

(e-5) If an insurer sends a second notice to an owner or operator demanding immediate payment of a past-due premium for insurance services provided pursuant to this Act, the demand for payment must offer a grace period of not less than 30 days during which the owner or operator shall be allowed to pay any premiums due. If payment is made during that period, coverage

under this Act shall not be terminated for non-payment by the insurer.

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

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

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

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



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opportunity for comment.

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

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