



Sen. Laura M. Murphy

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LRB100 05163 LNS 42583 a

1 AMENDMENT TO SENATE BILL 240

2 AMENDMENT NO. _____. Amend Senate Bill 240 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Drycleaner Environmental Response Trust
5 Fund Act is amended by changing Sections 40 and 85 as follows:

6 (415 ILCS 135/40)

7 Sec. 40. Remedial action account.

8 (a) The remedial action account is established to provide
9 reimbursement to eligible claimants for drycleaning solvent
10 investigation, remedial action planning, and remedial action
11 activities for existing drycleaning solvent contamination
12 discovered at their drycleaning facilities.

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

15 (1) In the case of claimant who is the owner or
16 operator of an active drycleaning facility licensed by the

1 Council under this Act at the time of application for
2 remedial action benefits afforded under the Fund, the
3 claimant is only eligible for reimbursement of remedial
4 action costs incurred in connection with a release from
5 that drycleaning facility, subject to any other
6 limitations under this Act.

7 (2) In the case of a claimant who is the owner of an
8 inactive drycleaning facility and was the owner or operator
9 of the drycleaning facility when it was an active
10 drycleaning facility, the claimant is only eligible for
11 reimbursement of remedial action costs incurred in
12 connection with a release from the drycleaning facility,
13 subject to any other limitations under this Act.

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

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

18 (2) At the time the release was discovered by the
19 claimant, the claimant and the drycleaning facility were in
20 compliance with the Agency reporting and technical
21 operating requirements.

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

24 (4) (Blank).

25 (5) If the claimant is the owner or operator of an
26 active drycleaning facility, the claimant has provided to

1 the Council proof of implementation and maintenance of the
2 following pollution prevention measures:

3 (A) That all drycleaning solvent wastes generated
4 at a drycleaning facility be managed in accordance with
5 applicable State waste management laws and rules.

6 (B) A prohibition on the discharge of wastewater
7 from drycleaning machines or of drycleaning solvent
8 from drycleaning operations to a sanitary sewer or
9 septic tank or to the surface or in groundwater.

10 (C) That every drycleaning facility:

11 (I) install a containment dike or other
12 containment structure around each machine, item of
13 equipment, drycleaning area, and portable waste
14 container in which any drycleaning solvent is
15 utilized, which shall be capable of containing
16 leaks, spills, or releases of drycleaning solvent
17 from that machine, item, area, or container. The
18 containment dike or other containment structure
19 shall be capable of at least the following: (i)
20 containing a capacity of 110% of the drycleaning
21 solvent in the largest tank or vessel within the
22 machine; (ii) containing 100% of the drycleaning
23 solvent of each item of equipment or drycleaning
24 area; and (iii) containing 100% of the drycleaning
25 solvent of the largest portable waste container or
26 at least 10% of the total volume of the portable

1 waste containers stored within the containment
2 dike or structure, whichever is greater.

3 Petroleum underground storage tank systems
4 that are upgraded in accordance with USEPA upgrade
5 standards pursuant to 40 CFR Part 280 for the tanks
6 and related piping systems and use a leak detection
7 system approved by the USEPA or IEPA are exempt
8 from this secondary containment requirement; and

9 (II) seal or otherwise render impervious those
10 portions of diked floor surfaces on which a
11 drycleaning solvent may leak, spill, or otherwise
12 be released.

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

16 (6) An active drycleaning facility has maintained
17 continuous financial assurance for environmental liability
18 coverage in the amount of at least \$500,000 at least since
19 the date of award of benefits under this Section or July 1,
20 2000, whichever is earlier. An uninsured drycleaning
21 facility that has filed an application for insurance with
22 the Fund by January 1, 2004, obtained insurance through
23 that application, and maintained that insurance coverage
24 continuously shall be considered to have conformed with the
25 requirements of this subdivision (6). To conform with this
26 requirement the applicant must pay the equivalent of the

1 total premiums due for the period beginning June 30, 2000
2 through the date of application plus a 20% penalty of the
3 total premiums due for that period.

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

6 (d) A claimant shall submit a completed application form
7 provided by the Council. The application shall contain
8 documentation of activities, plans, and expenditures
9 associated with the eligible costs incurred in response to a
10 release of drycleaning solvent from a drycleaning facility.
11 Application for remedial action account benefits must be
12 submitted to the Council on or before June 30, 2005.

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

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

24 (2) An eligible claimant submitting a claim for an
25 inactive drycleaning facility is responsible for the first
26 \$10,000 of eligible investigation costs and for the first

1 \$10,000 of eligible remedial action costs incurred in
2 connection with the release from that drycleaning
3 facility, and is only eligible for reimbursement for costs
4 that exceed those amounts, subject to any other limitations
5 of this Act.

6 (f) Claimants are subject to the following limitations on
7 reimbursement:

8 (1) Subsequent to meeting the deductible requirements
9 of subsection (e), and pursuant to the requirements of
10 Section 75, reimbursement shall not exceed \$300,000 per
11 active drycleaning facility and \$50,000 per inactive
12 drycleaning facility.

13 (2) A contract in which one of the parties to the
14 contract is a claimant, for goods or services that may be
15 payable or reimbursable from the Council, is void and
16 unenforceable unless and until the Council has found that
17 the contract terms are within the range of usual and
18 customary rates for similar or equivalent goods or services
19 within this State and has found that the goods or services
20 are necessary for the claimant to comply with Council
21 standards or other applicable regulatory standards.

22 (3) A claimant may appoint the Council as an agent for
23 the purposes of negotiating contracts with suppliers of
24 goods or services reimbursable by the Fund. The Council may
25 select another contractor for goods or services other than
26 the one offered by the claimant if the scope of the

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

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

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

14 (6) Unless emergency conditions exist, a service
15 provider shall obtain the Council's approval of the budget
16 for the remediation work before commencing the work. No
17 expense incurred that is above the budgeted amount shall be
18 paid unless the Council approves the expense prior to its
19 being incurred. All invoices and bills relating to the
20 remediation work shall be submitted with appropriate
21 documentation, as deemed necessary by the Council.

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

26 (8) The Council may determine the usual and customary

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

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

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

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

25 (i) Eligible claimants shall conduct remedial action in
26 accordance with the Site Remediation Program under the

1 Environmental Protection Act and Part 740 of Title 35 of the
2 Illinois Administrative Code and the Tiered Approach to Cleanup
3 Objectives under Part 742 of Title 35 of the Illinois
4 Administrative Code.

5 (j) Effective January 1, 2012, an active drycleaning
6 facility that has previously received or is currently receiving
7 reimbursement for the costs of a remedial action, as defined in
8 this Act, shall maintain continuous financial assurance for
9 environmental liability coverage in the amount of at least
10 \$500,000 until the earlier of (i) January 1, 2030 ~~2020~~ or (ii)
11 the date the Council determines the drycleaning facility is an
12 inactive drycleaning facility. Failure to comply with this
13 requirement will result in the revocation of the drycleaning
14 facility's existing license and in the inability of the
15 drycleaning facility to obtain or renew a license under Section
16 60 of this Act.

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

18 (415 ILCS 135/85)

19 Sec. 85. Repeal of fee and tax provisions. Sections 60 and
20 65 of this Act are repealed on January 1, 2030 ~~2020~~.

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

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