



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB0171

Introduced 1/30/2019, by Sen. Iris Y. Martinez

#### SYNOPSIS AS INTRODUCED:

415 ILCS 135/10  
415 ILCS 135/40  
415 ILCS 135/85

Amends the Drycleaner Environmental Response Trust Fund Act. Provides that an active drycleaning facility that has previously received or is currently receiving reimbursement for the costs of a remedial action shall maintain continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 until the earlier of (i) January 1, 2030 (currently, January 1, 2020) or (ii) the date the Drycleaner Environmental Response Trust Fund Council determines the drycleaning facility is an inactive drycleaning facility. Extends the repeal date for specified fee and tax provisions of the Drycleaner Environmental Response Trust Fund Act to January 1, 2030 (currently, January 1, 2020). Effective immediately.

LRB101 07423 CPF 52465 b

1 AN ACT concerning safety.

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

4 Section 5. The Drycleaner Environmental Response Trust  
5 Fund Act is amended by changing Sections 10, 40, and 85 as  
6 follows:

7 (415 ILCS 135/10)

8 Sec. 10. Drycleaner Environmental Response Trust Fund.

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

19 Pursuant to appropriation, all moneys in the Drycleaner  
20 Environmental Response Trust Fund shall be disbursed by the  
21 Agency to the Council for the purpose of making disbursements,  
22 if any, in accordance with this Act and for the purpose of  
23 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 Notwithstanding any other law to the contrary, the  
13 Drycleaner Environmental Response Trust Fund is not subject to  
14 sweeps, administrative charge-backs, or any other fiscal  
15 maneuver that would in any way transfer any amounts from the  
16 Drycleaner Environmental Response Trust Fund into any other  
17 fund of the State.

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

20 (1) To establish an account to fund remedial action of  
21 drycleaning solvent releases from drycleaning facilities  
22 as provided by Section 40.

23 (2) To establish an insurance account for insuring  
24 environmental risks from releases from drycleaning  
25 facilities within this State as provided by Section 45.

26 (c) The State, the General Revenue Fund, and any other Fund

1 of the State, other than the Drycleaner Environmental Response  
2 Trust Fund, shall not be liable for a claim or cause of action  
3 in connection with a drycleaning facility not owned or operated  
4 by the State or an agency of the State. All expenses incurred  
5 by the Fund shall be payable solely from the Fund and no  
6 liability or obligation shall be imposed upon the State. The  
7 State is not liable for a claim presented against the Fund.

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

16 (e) Nothing in this Act shall be construed to limit,  
17 restrict, or affect the authority and powers of the Agency or  
18 another State agency or statute unless the State agency or  
19 statute is specifically referenced and the limitation is  
20 clearly set forth in this Act.

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

22 (415 ILCS 135/40)

23 Sec. 40. Remedial action account.

24 (a) The remedial action account is established to provide  
25 reimbursement to eligible claimants for drycleaning solvent

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

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

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

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

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

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

25 (2) At the time the release was discovered by the  
26 claimant, the claimant and the drycleaning facility were in

1 compliance with the Agency reporting and technical  
2 operating requirements.

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

5 (4) (Blank).

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

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

13 (B) A prohibition on the discharge of wastewater  
14 from drycleaning machines or of drycleaning solvent  
15 from drycleaning operations to a sanitary sewer or  
16 septic tank or to the surface or in groundwater.

17 (C) That every drycleaning facility:

18 (I) install a containment dike or other  
19 containment structure around each machine, item of  
20 equipment, drycleaning area, and portable waste  
21 container in which any drycleaning solvent is  
22 utilized, which shall be capable of containing  
23 leaks, spills, or releases of drycleaning solvent  
24 from that machine, item, area, or container. The  
25 containment dike or other containment structure  
26 shall be capable of at least the following: (i)

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

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

16 (II) seal or otherwise render impervious those  
17 portions of diked floor surfaces on which a  
18 drycleaning solvent may leak, spill, or otherwise  
19 be released.

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

23 (6) An active drycleaning facility has maintained  
24 continuous financial assurance for environmental liability  
25 coverage in the amount of at least \$500,000 at least since  
26 the date of award of benefits under this Section or July 1,

1           2000, whichever is earlier. An uninsured drycleaning  
2           facility that has filed an application for insurance with  
3           the Fund by January 1, 2004, obtained insurance through  
4           that application, and maintained that insurance coverage  
5           continuously shall be considered to have conformed with the  
6           requirements of this subdivision (6). To conform with this  
7           requirement the applicant must pay the equivalent of the  
8           total premiums due for the period beginning June 30, 2000  
9           through the date of application plus a 20% penalty of the  
10          total premiums due for that period.

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

13           (d) A claimant shall submit a completed application form  
14          provided by the Council. The application shall contain  
15          documentation of activities, plans, and expenditures  
16          associated with the eligible costs incurred in response to a  
17          release of drycleaning solvent from a drycleaning facility.  
18          Application for remedial action account benefits must be  
19          submitted to the Council on or before June 30, 2005.

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

23           (1) An eligible claimant submitting a claim for an  
24          active drycleaning facility is responsible for the first  
25          \$5,000 of eligible investigation costs and for the first  
26          \$10,000 of eligible remedial action costs incurred in



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

5 (2) An eligible claimant submitting a claim for an  
6 inactive drycleaning facility is responsible for the first  
7 \$10,000 of eligible investigation costs and for the first  
8 \$10,000 of eligible remedial action costs incurred in  
9 connection with the release from that drycleaning  
10 facility, and is only eligible for reimbursement for costs  
11 that exceed those amounts, subject to any other limitations  
12 of this Act.

13 (f) Claimants are subject to the following limitations on  
14 reimbursement:

15 (1) Subsequent to meeting the deductible requirements  
16 of subsection (e), and pursuant to the requirements of  
17 Section 75, reimbursement shall not exceed \$300,000 per  
18 active drycleaning facility and \$50,000 per inactive  
19 drycleaning facility.

20 (2) A contract in which one of the parties to the  
21 contract is a claimant, for goods or services that may be  
22 payable or reimbursable from the Council, is void and  
23 unenforceable unless and until the Council has found that  
24 the contract terms are within the range of usual and  
25 customary rates for similar or equivalent goods or services  
26 within this State and has found that the goods or services

1 are necessary for the claimant to comply with Council  
2 standards or other applicable regulatory standards.

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

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

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

21 (6) Unless emergency conditions exist, a service  
22 provider shall obtain the Council's approval of the budget  
23 for the remediation work before commencing the work. No  
24 expense incurred that is above the budgeted amount shall be  
25 paid unless the Council approves the expense prior to its  
26 being incurred. All invoices and bills relating to the

1 remediation work shall be submitted with appropriate  
2 documentation, as deemed necessary by the Council.

3 (7) Neither the Council nor an eligible claimant is  
4 responsible for payment for costs incurred that have not  
5 been previously approved by the Council, unless an  
6 emergency exists.

7 (8) The Council may determine the usual and customary  
8 costs of each item for which reimbursement may be awarded  
9 under this Section. The Council may revise the usual and  
10 customary costs from time to time as necessary, but costs  
11 submitted for reimbursement shall be subject to the rates  
12 in effect at the time the costs were incurred.

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

25 (g) The source of funds for the remedial action account  
26 shall be moneys allocated to the account by the Council

1 according to the Fund budget approved by the Council.

2 (h) A drycleaning facility will be classified as active or  
3 inactive for purposes of determining benefits under this  
4 Section based on the status of the facility on the date a claim  
5 is filed.

6 (i) Eligible claimants shall conduct remedial action in  
7 accordance with the Site Remediation Program under the  
8 Environmental Protection Act and Part 740 of Title 35 of the  
9 Illinois Administrative Code and the Tiered Approach to Cleanup  
10 Objectives under Part 742 of Title 35 of the Illinois  
11 Administrative Code.

12 (j) Effective January 1, 2012, an active drycleaning  
13 facility that has previously received or is currently receiving  
14 reimbursement for the costs of a remedial action, as defined in  
15 this Act, shall maintain continuous financial assurance for  
16 environmental liability coverage in the amount of at least  
17 \$500,000 until the earlier of (i) January 1, 2030 ~~2020~~ or (ii)  
18 the date the Council determines the drycleaning facility is an  
19 inactive drycleaning facility. Failure to comply with this  
20 requirement will result in the revocation of the drycleaning  
21 facility's existing license and in the inability of the  
22 drycleaning facility to obtain or renew a license under Section  
23 60 of this Act.

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

25 (415 ILCS 135/85)

1           Sec. 85. Repeal of fee and tax provisions. Sections 60 and  
2           65 of this Act are repealed on January 1, 2030 ~~2020~~.

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

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