



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2352

Introduced 1/28/2004, by Patrick Welch

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.2d new

Amends the Environmental Protection Act. Provides that, if an insurance policyholder may be liable to the State or a unit of local government for costs of removal and remedial action relating to hazardous waste or pesticides under the Act or under any other law or ordinance establishing liability for environmental cleanup costs, the State or unit of local government may bring a cause of action against the policyholder's insurer for those costs if the insurance policy was issued before January 1, 1987, the policyholder has dissolved or is no longer in existence or cannot be found, and if the policyholder was a corporation, the policyholder dissolved more than 5 years before the action is commenced. Adds successors in interest as persons who may be notified of the insurer's intent to bring an action against the policyholder. Effective immediately.

LRB093 13495 BDD 40196 b

1 AN ACT in relation environmental protection.

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

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 22.2d as follows:

6 (415 ILCS 5/22.2d new)

7 Sec. 22.2d. If an insurance policyholder may be liable to
8 the State or a unit of local government for costs of removal
9 and remedial action relating to hazardous waste or pesticides
10 under Section 22.2 of this Act or under any other law or
11 ordinance establishing liability for environmental cleanup
12 costs, the State or unit of local government may bring a cause
13 of action against the policyholder's insurer for those costs
14 if: (i) the insurance policy that is the basis for the action
15 was issued prior to January 1, 1987; (ii) the policyholder has
16 dissolved or otherwise is no longer in existence or cannot be
17 found; and (iii) if the policyholder was a corporation, the
18 policyholder dissolved more than 5 years before the action is
19 commenced. The action may be brought regardless of whether the
20 policyholder's rights have been assigned to the State or unit
21 of local government, and regardless of whether a judgment has
22 been obtained against the policyholder. Prior to bringing an
23 action under this Section, the State or unit of local
24 government shall make a reasonable effort to notify the
25 policyholder or its successor in interest of its intent to
26 bring the action. A policyholder or its successor in interest
27 shall have the right to intervene in any such action. All
28 defenses available to a policyholder to any claim of liability
29 for environmental response costs asserted or that could be
30 asserted against it shall be available to the insurer in an
31 action brought under this Section. In any action under this
32 Section, the claim of the State or unit of local government

1 shall be limited by the applicable terms, conditions, and
2 provisions of the relevant insurance policy under which
3 coverage may be provided, and the State or the unit of local
4 government shall have no greater rights than the rights of the
5 policyholder under its insurance policy, subject to the
6 statutory and common law that applies to the determination of
7 those rights. In any action under this Section, the State or
8 unit of local government shall have the same rights as an
9 individual policyholder to recover its reasonable expenses and
10 costs of litigation, including attorney fees.

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