



Sen. Pamela J. Althoff

**Filed: 5/9/2013**

09800HB3349sam001

LRB098 09295 JDS 45683 a

1 AMENDMENT TO HOUSE BILL 3349

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3349 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 20 and 45 as follows:

6 (415 ILCS 135/20)

7 Sec. 20. Council rules.

8 (a) The Council may adopt rules in accordance with the  
9 emergency rulemaking provisions of Section 5-45 of the Illinois  
10 Administrative Procedure Act for one year after the effective  
11 date of this Act. Thereafter, the Council shall conduct general  
12 rulemaking as provided under the Illinois Administrative  
13 Procedure Act.

14 (b) The Council shall adopt rules regarding its practice  
15 and procedures for investigating and settling claims made  
16 against the Fund, determining reimbursement guidelines,

1 coordinating with the Agency, and otherwise implementing and  
2 administering the Fund under this Act.

3 (c) The Council shall adopt rules regarding its practice  
4 and procedures to develop underwriting standards, establish  
5 insurance account coverage and risk factors, settle claims made  
6 against the insurance account of the Fund, determine  
7 appropriate deductibles or retentions in coverages or benefits  
8 offered under the insurance account of the Fund, determine  
9 reimbursement guidelines, and otherwise implement and  
10 administer the insurance account under this Act.

11 (c-1) Within 90 days after the effective date of this  
12 amendatory Act of the 98th General Assembly, the Council shall  
13 amend its rules to allow access to registration materials by  
14 electronic means.

15 (d) The Council shall adopt rules necessary for the  
16 implementation and collection of insurance account premiums  
17 prior to offering insurance to an owner or operator of a  
18 drycleaning facility or other person.

19 (e) The Council shall adopt rules prescribing requirements  
20 for the retention of records by an owner or operator and the  
21 periods for which he or she must retain those records.

22 (f) The Council shall adopt rules describing the manner in  
23 which all disbursed moneys received from the Agency shall be  
24 deposited with a bank or savings and loan association to be  
25 approved by the Council. For purposes of this subsection, the  
26 Council shall be considered a public agency and, therefore, no

1 bank or savings and loan association shall receive public funds  
2 from the Council, and the Council shall not make any  
3 investments, unless in accordance with the Public Funds  
4 Investment Act.

5 (g) All final Council decisions regarding the Fund or any  
6 reimbursement from the Fund and any decision concerning the  
7 classification of drycleaning solvents pursuant to subsection  
8 (a) of Section 65 of this Act and any notice of the assessment  
9 of civil penalties under Section 69 of this Act shall be  
10 subject to appeal to the Administrator of the Council, by the  
11 affected parties, within 60 days after the final decision. The  
12 Council shall determine by rule persons who have standing to  
13 appeal final Council decisions. Any written decision by the  
14 Administrator may be appealed to the Council within 60 days  
15 after the Administrator's final decision. Any decision by the  
16 Council may be appealed to the Council's administrative law  
17 judge within 60 days after the Council's final decision. Notice  
18 of any hearing provided for by this Act shall be given not less  
19 than 7 days before the day fixed for the hearing. An appeal of  
20 the administrative law judge's decision will be subject to  
21 judicial review in accordance with the Administrative Review  
22 Law.

23 Any decision not timely appealed shall become a final  
24 administrative decision without the necessity of a final  
25 administrative decision being issued and shall be deemed to be  
26 a final administrative decision.

1           The Council shall adopt rules relating to appeal  
2 procedures.

3           The Council may designate an attorney, employed by the  
4 Council or privately employed, to act as an administrative law  
5 judge to preside at any administrative hearing resulting from  
6 the appeal of a Council decision. The Council and the  
7 Department of Revenue are authorized to enter into an agreement  
8 whereby an administrative law judge employed by the Department  
9 may be assigned to preside at the administrative hearings.

10          Proof of the Council's administrative decision may be made  
11 at any administrative or legal proceeding by a reproduced copy  
12 of the Council's record relating to the decision under the  
13 certificate of the Council. A reproduced copy shall, without  
14 further proof, be admitted into evidence and shall be prima  
15 facie proof of the decision.

16          The provisions of the Administrative Review Law, and any  
17 rules adopted under the Administrative Review law by the  
18 Council, shall govern all proceedings for the judicial review  
19 of final administrative decisions of the Council. The term  
20 "administrative decision" has the same meaning as it does in  
21 Section 3-101 of the Code of Civil Procedure.

22          Venue for an administrative review action challenging the  
23 results of an administrative hearing upholding an  
24 administrative decision issued by the Council shall be proper  
25 in the Circuit Court of the county where the plaintiff has its  
26 principal place of business, or Sangamon County if the

1 plaintiff's principal place of business is located outside  
2 Illinois.

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

4 (415 ILCS 135/45)

5 Sec. 45. Insurance account.

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

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

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

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

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

23 (c) An owner or operator may purchase coverage of up to  
24 \$500,000 per drycleaning facility subject to the terms and  
25 conditions under this Section and those adopted by the Council.

1 Coverage shall be limited to remedial action costs associated  
2 with soil and groundwater contamination resulting from a  
3 release of drycleaning solvent at an insured drycleaning  
4 facility, including third-party liability for soil and  
5 groundwater contamination. Coverage is not provided for a  
6 release that occurred before the date of coverage.

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

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

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

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

24 (1) For the year July 1, 1999 through June 30, 2000,  
25 \$250 per drycleaning facility.

26 (2) For the year July 1, 2000 through June 30, 2001,

1           \$375 per drycleaning facility.

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

4           (4) For the year July 1, 2002 through June 30, 2003,  
5           \$625 per drycleaning facility.

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

23          (e-5) If an insurer sends a second notice to an owner or  
24          operator demanding immediate payment of a past-due premium for  
25          insurance services provided pursuant to this Act, the demand  
26          for payment must offer a grace period of not less than 30 days

1 during which the owner or operator shall be allowed to pay any  
2 premiums due. If payment is made during that period, coverage  
3 under this Act shall not be terminated for non-payment by the  
4 insurer.

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

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

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

16 (h) A future repeal of this Section shall not terminate the  
17 obligations under this Section or authority necessary to  
18 administer the obligations until the obligations are  
19 satisfied, including but not limited to the payment of claims  
20 filed prior to the effective date of any future repeal against  
21 the insurance account until moneys in the account are  
22 exhausted. Upon exhaustion of the moneys in the account, any  
23 remaining claims shall be invalid. If moneys remain in the  
24 account following satisfaction of the obligations under this  
25 Section, the remaining moneys and moneys due the account shall  
26 be used to assist current insureds to obtain a viable insuring



1 mechanism as determined by the Council after public notice and  
2 opportunity for comment.

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

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