



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3632

Introduced 11/7/2018, 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.

LRB100 23463 LNS 42496 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.