

1 AN ACT in relation to 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  
8 to the State or a unit of local government for costs of  
9 removal and remedial action relating to hazardous waste or  
10 pesticides under Section 22.2 of this Act or under any other  
11 law or ordinance establishing liability for environmental  
12 cleanup costs, the State or unit of local government may  
13 bring a cause of action against the policyholder's insurer  
14 for those costs. The action may be brought regardless of  
15 whether the policyholder's rights have been assigned to the  
16 State or unit of local government, and regardless of whether  
17 a judgment has been obtained against the policyholder. Prior  
18 to bringing an action under this Section, the State or unit  
19 of local government shall make a reasonable effort to notify  
20 the policyholder of its intent to bring the action. A  
21 policyholder shall have the right to intervene in any such  
22 action. All defenses available to a policyholder to any claim  
23 of liability for environmental response costs asserted or  
24 that could be asserted against it shall be available to the  
25 insurer in an action brought under this Section. In any  
26 action under this Section, the claim of the State or unit of  
27 local government shall be limited by the applicable terms,  
28 conditions, and provisions of the relevant insurance policy  
29 under which coverage may be provided, and the State or the  
30 unit of local government shall have no greater rights than  
31 the rights of the policyholder under its insurance policy,

1 subject to the statutory and common law that applies to the  
2 determination of those rights. In any action under this  
3 Section, the State or unit of local government shall have the  
4 same rights as an individual policyholder to recover its  
5 reasonable expenses and costs of litigation, including  
6 attorney fees.