



Rep. Thomas Holbrook

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1 AMENDMENT TO HOUSE BILL 1953

2 AMENDMENT NO. _____. Amend House Bill 1953 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 40 and 60 as follows:

6 (415 ILCS 135/40)

7 Sec. 40. Remedial action account.

8 (a) The remedial action account is established to provide
9 reimbursement to eligible claimants for drycleaning solvent
10 investigation, remedial action planning, and remedial action
11 activities for existing drycleaning solvent contamination
12 discovered at their drycleaning facilities.

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

15 (1) In the case of claimant who is the owner or
16 operator of an active drycleaning facility licensed by the

1 Council under this Act at the time of application for
2 remedial action benefits afforded under the Fund, the
3 claimant is only eligible for reimbursement of remedial
4 action costs incurred in connection with a release from
5 that drycleaning facility, subject to any other
6 limitations under this Act.

7 (2) In the case of a claimant who is the owner of an
8 inactive drycleaning facility and was the owner or operator
9 of the drycleaning facility when it was an active
10 drycleaning facility, the claimant is only eligible for
11 reimbursement of remedial action costs incurred in
12 connection with a release from the drycleaning facility,
13 subject to any other limitations under this Act.

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

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

18 (2) At the time the release was discovered by the
19 claimant, the claimant and the drycleaning facility were in
20 compliance with the Agency reporting and technical
21 operating requirements.

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

24 (4) (Blank). ~~The claimant applying for reimbursement~~
25 ~~has not filed for bankruptcy on or after the date of his or~~
26 ~~her discovery of the release.~~

1 (5) If the claimant is the owner or operator of an
2 active drycleaning facility, the claimant has provided to
3 the Council proof of implementation and maintenance of the
4 following pollution prevention measures:

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

8 (B) A prohibition on the discharge of wastewater
9 from drycleaning machines or of drycleaning solvent
10 from drycleaning operations to a sanitary sewer or
11 septic tank or to the surface or in groundwater.

12 (C) That every drycleaning facility:

13 (I) install a containment dike or other
14 containment structure around each machine, item of
15 equipment, drycleaning area, and portable waste
16 container in which any drycleaning solvent is
17 utilized, which shall be capable of containing
18 leaks, spills, or releases of drycleaning solvent
19 from that machine, item, area, or container. The
20 containment dike or other containment structure
21 shall be capable of at least the following: (i)
22 containing a capacity of 110% of the drycleaning
23 solvent in the largest tank or vessel within the
24 machine; (ii) containing 100% of the drycleaning
25 solvent of each item of equipment or drycleaning
26 area; and (iii) containing 100% of the drycleaning

1 solvent of the largest portable waste container or
2 at least 10% of the total volume of the portable
3 waste containers stored within the containment
4 dike or structure, whichever is greater.

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

11 (II) seal or otherwise render impervious those
12 portions of diked floor surfaces on which a
13 drycleaning solvent may leak, spill, or otherwise
14 be released.

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

18 (6) An active drycleaning facility has maintained
19 continuous financial assurance for environmental liability
20 coverage in the amount of at least \$500,000 at least since
21 the date of award of benefits under this Section or July 1,
22 2000, whichever is earlier. An uninsured drycleaning
23 facility that has filed an application for insurance with
24 the Fund by January 1, 2004, obtained insurance through
25 that application, and maintained that insurance coverage
26 continuously shall be considered to have conformed with the

1 requirements of this subdivision (6). To conform with this
2 requirement the applicant must pay the equivalent of the
3 total premiums due for the period beginning June 30, 2000
4 through the date of application plus a 20% penalty of the
5 total premiums due for that period.

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

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

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

18 (1) An eligible claimant submitting a claim for an
19 active drycleaning facility is responsible for the first
20 \$5,000 of eligible investigation costs and for the first
21 \$10,000 of eligible remedial action costs incurred in
22 connection with the release from the drycleaning facility
23 and is only eligible for reimbursement for costs that
24 exceed those amounts, subject to any other limitations of
25 this Act.

26 (2) An eligible claimant submitting a claim for an

1 inactive drycleaning facility is responsible for the first
2 \$10,000 of eligible investigation costs and for the first
3 \$10,000 of eligible remedial action costs incurred in
4 connection with the release from that drycleaning
5 facility, and is only eligible for reimbursement for costs
6 that exceed those amounts, subject to any other limitations
7 of this Act.

8 (f) Claimants are subject to the following limitations on
9 reimbursement:

10 (1) Subsequent to meeting the deductible requirements
11 of subsection (e), and pursuant to the requirements of
12 Section 75, reimbursement shall not exceed \$300,000 per
13 active drycleaning facility and \$50,000 per inactive
14 drycleaning facility.

15 (2) A contract in which one of the parties to the
16 contract is a claimant, for goods or services that may be
17 payable or reimbursable from the Council, is void and
18 unenforceable unless and until the Council has found that
19 the contract terms are within the range of usual and
20 customary rates for similar or equivalent goods or services
21 within this State and has found that the goods or services
22 are necessary for the claimant to comply with Council
23 standards or other applicable regulatory standards.

24 (3) A claimant may appoint the Council as an agent for
25 the purposes of negotiating contracts with suppliers of
26 goods or services reimbursable by the Fund. The Council may

1 select another contractor for goods or services other than
2 the one offered by the claimant if the scope of the
3 proposed work or actual work of the claimant's offered
4 contractor does not reflect the quality of workmanship
5 required or if the costs are determined to be excessive, as
6 determined by the Council.

7 (4) The Council may require a claimant to obtain and
8 submit 3 bids and may require specific terms and conditions
9 in a contract subject to approval.

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

16 (6) Unless emergency conditions exist, a service
17 provider shall obtain the Council's approval of the budget
18 for the remediation work before commencing the work. No
19 expense incurred that is above the budgeted amount shall be
20 paid unless the Council approves the expense prior to its
21 being incurred. All invoices and bills relating to the
22 remediation work shall be submitted with appropriate
23 documentation, as deemed necessary by the Council.

24 (7) Neither the Council nor an eligible claimant is
25 responsible for payment for costs incurred that have not
26 been previously approved by the Council, unless an

1 emergency exists.

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

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

20 (g) The source of funds for the remedial action account
21 shall be moneys allocated to the account by the Council
22 according to the Fund budget approved by the Council.

23 (h) A drycleaning facility will be classified as active or
24 inactive for purposes of determining benefits under this
25 Section based on the status of the facility on the date a claim
26 is filed.

1 (i) Eligible claimants shall conduct remedial action in
2 accordance with the Site Remediation Program under the
3 Environmental Protection Act and Part 740 of Title 35 of the
4 Illinois Administrative Code and the Tiered Approach to Cleanup
5 Objectives under Part 742 of Title 35 of the Illinois
6 Administrative Code.

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

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

20 (415 ILCS 135/60)

21 (Section scheduled to be repealed on January 1, 2020)

22 Sec. 60. Drycleaning facility license.

23 (a) On and after January 1, 1998, no person shall operate a
24 drycleaning facility in this State without a license issued by
25 the Council.

1 (b) The Council shall issue an initial or renewal license
2 to a drycleaning facility on submission by an applicant of a
3 completed form prescribed by the Council, ~~and~~ proof of payment
4 of the required fee to the Department of Revenue, and, if the
5 drycleaning facility has previously received or is currently
6 receiving reimbursement for the costs of a remedial action, as
7 defined in this Act, proof of compliance with subsection (j) of
8 Section 40.

9 (c) On or after January 1, 2004, the annual fees for
10 licensure are as follows:

11 (1) \$500 for a facility that uses (i) 50 gallons or
12 less of chlorine-based or green drycleaning solvents
13 annually, (ii) 250 or less gallons annually of
14 hydrocarbon-based drycleaning solvents in a drycleaning
15 machine equipped with a solvent reclaimer, or (iii) 500
16 gallons or less annually of hydrocarbon-based drycleaning
17 solvents in a drycleaning machine without a solvent
18 reclaimer.

19 (2) \$500 for a facility that uses (i) more than 50
20 gallons but not more than 100 gallons of chlorine-based or
21 green drycleaning solvents annually, (ii) more than 250
22 gallons but not more 500 gallons annually of
23 hydrocarbon-based solvents in a drycleaning machine
24 equipped with a solvent reclaimer, or (iii) more than 500
25 gallons but not more than 1,000 gallons annually of
26 hydrocarbon-based drycleaning solvents in a drycleaning

1 machine without a solvent reclaimer.

2 (3) \$500 for a facility that uses (i) more than 100
3 gallons but not more than 150 gallons of chlorine-based or
4 green drycleaning solvents annually, (ii) more than 500
5 gallons but not more than 750 gallons annually of
6 hydrocarbon-based solvents in a drycleaning machine
7 equipped with a solvent reclaimer, or (iii) more than 1,000
8 gallons but not more than 1,500 gallons annually of
9 hydrocarbon-based drycleaning solvents in a drycleaning
10 machine without a solvent reclaimer.

11 (4) \$1,000 for a facility that uses (i) more than 150
12 gallons but not more than 200 gallons of chlorine-based or
13 green drycleaning solvents annually, (ii) more than 750
14 gallons but not more than 1,000 gallons annually of
15 hydrocarbon-based solvents in a drycleaning machine
16 equipped with a solvent reclaimer, or (iii) more than 1,500
17 gallons but not more than 2,000 gallons annually of
18 hydrocarbon-based drycleaning solvents in a drycleaning
19 machine without a solvent reclaimer.

20 (5) \$1,000 for a facility that uses (i) more than 200
21 gallons but not more than 250 gallons of chlorine-based or
22 green drycleaning solvents annually, (ii) more than 1,000
23 gallons but not more than 1,250 gallons annually of
24 hydrocarbon-based solvents in a drycleaning machine
25 equipped with a solvent reclaimer, or (iii) more than 2,000
26 gallons but not more than 2,500 gallons annually of

1 hydrocarbon-based drycleaning solvents in a drycleaning
2 machine without a solvent reclaimer.

3 (6) \$1,000 for a facility that uses (i) more than 250
4 gallons but not more than 300 gallons of chlorine-based or
5 green drycleaning solvents annually, (ii) more than 1,250
6 gallons but not more than 1,500 gallons annually of
7 hydrocarbon-based solvents in a drycleaning machine
8 equipped with a solvent reclaimer, or (iii) more than 2,500
9 gallons but not more than 3,000 gallons annually of
10 hydrocarbon-based drycleaning solvents in a drycleaning
11 machine without a solvent reclaimer.

12 (7) \$1,000 for a facility that uses (i) more than 300
13 gallons but not more than 350 gallons of chlorine-based or
14 green drycleaning solvents annually, (ii) more than 1,500
15 gallons but not more than 1,750 gallons annually of
16 hydrocarbon-based solvents in a drycleaning machine
17 equipped with a solvent reclaimer, or (iii) more than 3,000
18 gallons but not more than 3,500 gallons annually of
19 hydrocarbon-based drycleaning solvents in a drycleaning
20 machine without a solvent reclaimer.

21 (8) \$1,500 for a facility that uses (i) more than 350
22 gallons but not more than 400 gallons of chlorine-based or
23 green drycleaning solvents annually, (ii) more than 1,750
24 gallons but not more than 2,000 gallons annually of
25 hydrocarbon-based solvents in a drycleaning machine
26 equipped with a solvent reclaimer, or (iii) more than 3,500

1 gallons but not more than 4,000 gallons annually of
2 hydrocarbon-based drycleaning solvents in a drycleaning
3 machine without a solvent reclaimer.

4 (9) \$1,500 for a facility that uses (i) more than 400
5 gallons but not more than 450 gallons of chlorine-based or
6 green drycleaning solvents annually, (ii) more than 2,000
7 gallons but not more than 2,250 gallons annually of
8 hydrocarbon-based solvents in a drycleaning machine
9 equipped with a solvent reclaimer, or (iii) more than 4,000
10 gallons but not more than 4,500 gallons annually of
11 hydrocarbon-based drycleaning solvents in a drycleaning
12 machine without a solvent reclaimer.

13 (10) \$1,500 for a facility that uses (i) more than 450
14 gallons but not more than 500 gallons of chlorine-based or
15 green drycleaning solvents annually, (ii) more than 2,250
16 gallons but not more than 2,500 gallons annually of
17 hydrocarbon-based solvents used in a drycleaning machine
18 equipped with a solvent reclaimer, or (iii) more than 4,500
19 gallons but not more than 5,000 gallons annually of
20 hydrocarbon-based drycleaning solvents in a drycleaning
21 machine without a solvent reclaimer.

22 (11) \$1,500 for a facility that uses (i) more than 500
23 gallons but not more than 550 gallons of chlorine-based or
24 green drycleaning solvents annually, (ii) more than 2,500
25 gallons but not more than 2,750 gallons annually of
26 hydrocarbon-based solvents in a drycleaning machine

1 equipped with a solvent reclaimer, or (iii) more than 5,000
2 gallons but not more than 5,500 gallons annually of
3 hydrocarbon-based drycleaning solvents in a drycleaning
4 machine without a solvent reclaimer.

5 (12) \$1,500 for a facility that uses (i) more than 550
6 gallons but not more than 600 gallons of chlorine-based or
7 green drycleaning solvents annually, (ii) more than 2,750
8 gallons but not more than 3,000 gallons annually of
9 hydrocarbon-based solvents in a drycleaning machine
10 equipped with a solvent reclaimer, or (iii) more than 5,500
11 gallons but not more than 6,000 gallons annually of
12 hydrocarbon-based drycleaning solvents in a drycleaning
13 machine without a solvent reclaimer.

14 (13) \$1,500 for a facility that uses (i) more than 600
15 gallons of chlorine-based or green drycleaning solvents
16 annually, (ii) more than 3,000 gallons but not more than
17 3,250 gallons annually of hydrocarbon-based solvents in a
18 drycleaning machine equipped with a solvent reclaimer, or
19 (iii) more than 6,000 gallons of hydrocarbon-based
20 drycleaning solvents annually in a drycleaning machine
21 equipped without a solvent reclaimer.

22 (14) \$1,500 for a facility that uses more than 3,250
23 gallons but not more than 3,500 gallons annually of
24 hydrocarbon-based solvents in a drycleaning machine
25 equipped with a solvent reclaimer.

26 (15) \$1,500 for a facility that uses more than 3,500

1 gallons but not more than 3,750 gallons annually of
2 hydrocarbon-based solvents used in a drycleaning machine
3 equipped with a solvent reclaimer.

4 (16) \$1,500 for a facility that uses more than 3,750
5 gallons but not more than 4,000 gallons annually of
6 hydrocarbon-based solvents in a drycleaning machine
7 equipped with a solvent reclaimer.

8 (17) \$1,500 for a facility that uses more than 4,000
9 gallons annually of hydrocarbon-based solvents in a
10 drycleaning machine equipped with a solvent reclaimer.

11 For purpose of this subsection, the quantity of drycleaning
12 solvents used annually shall be determined as follows:

13 (1) in the case of an initial applicant, the quantity
14 of drycleaning solvents that the applicant estimates will
15 be used during his or her initial license year. A fee
16 assessed under this subdivision is subject to audited
17 adjustment for that year; or

18 (2) in the case of a renewal applicant, the quantity of
19 drycleaning solvents actually purchased in the preceding
20 license year.

21 The Council may adjust licensing fees annually based on the
22 published Consumer Price Index - All Urban Consumers ("CPI-U")
23 or as otherwise determined by the Council.

24 (d) A license issued under this Section shall expire one
25 year after the date of issuance and may be renewed on
26 reapplication to the Council and submission of proof of payment

1 of the appropriate fee to the Department of Revenue in
2 accordance with subsections (c) and (e). At least 30 days
3 before payment of a renewal licensing fee is due, the Council
4 shall attempt to:

5 (1) notify the operator of each licensed drycleaning
6 facility concerning the requirements of this Section; and

7 (2) submit a license fee payment form to the licensed
8 operator of each drycleaning facility.

9 (e) An operator of a drycleaning facility shall submit the
10 appropriate application form provided by the Council with the
11 license fee in the form of cash, ~~or~~ guaranteed remittance, or
12 credit card to the Department of Revenue. The license fee
13 payment form and the actual license fee payment shall be
14 administered by the Department of Revenue under rules adopted
15 by that Department.

16 (f) The Department of Revenue shall issue a proof of
17 payment receipt to each operator of a drycleaning facility who
18 has paid the appropriate fee in cash or by guaranteed
19 remittance or credit card. However, the Department of Revenue
20 shall not issue a proof of payment receipt to a drycleaning
21 facility that is liable to the Department of Revenue for a tax
22 imposed under this Act. The original receipt shall be presented
23 to the Council by the operator of a drycleaning facility.

24 (g) (Blank).

25 (h) The Council and the Department of Revenue may adopt
26 rules as necessary to administer the licensing requirements of

1 this Act.

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