

1 AN ACT regarding assessments on the brick industry.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Brick Education and Research Act.

6 Section 5. Definitions. In this Act, unless the context
7 otherwise requires:

8 "Brick" means face brick and paving brick, manufactured
9 from clay, shale, or similar naturally occurring earthy
10 substances that are subjected to a heat treatment at elevated
11 temperatures that develops a fired bond between the
12 particulate constituents to provide strength and durability
13 requirements.

14 "Council" means a Brick Education and Research Council
15 created under Section 10.

16 "Director" means Director of Commerce and Community
17 Affairs or his or her designee.

18 "Education" means any action to provide information
19 regarding brick, brick equipment, mechanical and technical
20 practices, and brick uses to consumers and members of the
21 brick industry.

22 "Industry" means those persons involved in the
23 production, transportation, construction, and sale of brick.

24 "Owner of brick" means any distributor or manufacturer of
25 brick located within Illinois.

26 "Placed into commerce" means distributed for use within
27 the State of Illinois.

28 "Public member" means a member of the Council other than
29 a representative of producers or retail marketers
30 representing significant users of brick, public safety
31 officials, State regulatory officials, or other groups

1 knowledgeable about brick.

2 "Qualified industry organization" means the Illinois
3 Brick Distributors Association, the Masonry Contractors
4 Association of Greater Chicago, the Masonry Contractors
5 Association of Southern Illinois, the Illinois District
6 Council Number 1 International Union of Bricklayers and
7 Allied Crafts, Illinois Bricklayers and Allied Crafts Local
8 6, and the Illinois Bricklayers and Allied Crafts Local 8, a
9 successor association of these associations, or any other
10 brick industry organization.

11 "Research" means any type of study, investigation, or
12 other activities designed to advance the image, desirability,
13 usage, marketability, efficiency, and safety of bricks and to
14 further the development of that information.

15 "Retail marketer" means a person engaged primarily in the
16 sale of bricks to the ultimate consumer or to retail brick
17 dispensers.

18 "Retail brick dispenser" means a person who sells bricks
19 to the ultimate consumer but is not engaged primarily in the
20 business of those sales.

21 Section 10. Illinois Brick Education and Research
22 Council.

23 (a) The qualified industry organizations shall select
24 all contractors, distributors, labor representatives, and
25 public members of the Council. The distributor organizations
26 shall select the distributor members of the Council, the
27 contractor organizations shall select all contractor members
28 of the Council, and the labor organizations shall select all
29 labor members of the Council. The qualified industry
30 organizations shall jointly select the public members.
31 Vacancies of the unfinished terms of the Council members
32 shall be filled in the same manner as were the original
33 appointments.

1 (b) In selecting members of the Council, the qualified
2 industry organizations shall give due regard to selecting a
3 Council that is representative of the industry, including
4 representation of diverse geographic regions of the State.

5 (c) The Council shall consist of 11 members, with 3
6 members representing contractors, 3 members representing
7 distributors, 3 members representing labor, and 2 public
8 members. Other than the public members, Council members
9 shall be full-time employees or owners of businesses in the
10 industry or members of a union that is a qualified industry
11 organization. Only one person at a time from any company or
12 its affiliate may serve on the Council. The Director may
13 serve as an ex-officio non-voting member of the Council.

14 (d) Council members shall receive no compensation for
15 their services, nor shall Council members be reimbursed for
16 expenses relating to their service, except that public
17 members, upon request, may be reimbursed for reasonable
18 expenses directly related to their participation in Council
19 meetings.

20 (e) Council members shall serve terms of 3 years and may
21 not serve more than 2 full consecutive terms. Members
22 filling unexpired terms may serve not more than a total of 7
23 consecutive years. Former members of the Council may be
24 returned to the Council if they have not been members for a
25 period of 2 years. Initial appointments to the Council shall
26 be for terms of 1, 2, and 3 years staggered to provide for
27 the selection of 3 members each year. The Council shall
28 notify the Director of the name, address, and brick-related
29 affiliation, if any, of a Council member within 30 days after
30 the appointment of the member to the Council.

31 (f) The Council shall develop programs and projects and
32 enter into contracts or agreements for implementing this Act,
33 including programs to enhance consumer and employee safety
34 and training, to provide for research and development of

1 energy efficient use of brick, to inform and educate the
2 public about safety, efficiency, and other issues associated
3 with the use and promotion of brick, and to provide for the
4 payment of the costs of those activities with funds collected
5 pursuant to this Act. The Council shall coordinate its
6 activities with industry trade associations and others as
7 appropriate to provide efficient delivery of services and to
8 avoid unnecessary duplication of activities.

9 (g) Issues related to research and development, safety,
10 education, and training shall be given priority by the
11 Council in the development of its programs and projects.

12 (h) The Council shall select from among its members a
13 Chairperson and other officers as necessary, may establish
14 committees and subcommittees of the Council, and shall adopt
15 rules and bylaws for the conduct of business and the
16 implementation of this Act. The Council shall establish
17 procedures for the solicitation of industry comment and
18 recommendations on any significant plans, programs, and
19 projects to be funded by the Council. The Council may
20 establish advisory committees of persons other than Council
21 members.

22 (i) At the beginning of each fiscal period, the Council
23 shall prepare a budget plan for the next fiscal period,
24 including the probable cost of all programs, projects, and
25 contracts and a recommended rate of assessment sufficient to
26 cover such costs. The Council shall submit the proposed
27 budget to the Director for review and comment. The Director
28 may recommend programs and activities considered appropriate.

29 (j) The Council shall keep minutes, books, and records
30 that clearly reflect all of the acts and transactions of the
31 Council and make public that information. The books of the
32 Council shall be audited by a certified public accountant at
33 least once each fiscal year and at such other times as the
34 Council may designate. The expense of the audit shall be the

1 responsibility of the Council. Copies of the audit shall be
2 provided to all members of the Council, all qualified
3 industry organizations, and to other members of the industry
4 upon request.

5 Section 15. Assessments.

6 (a) The Council shall set an initial assessment at no
7 greater than $1/2$ of 1 cent per brick. Thereafter, annual
8 assessments shall be sufficient to cover the costs of plans
9 and programs developed by the Council. The assessment shall
10 not be greater than $3/4$ cent per brick. In no case may the
11 assessment be raised by more than $1/10$ of 1 cent per brick
12 annually.

13 (b) The owner of brick, at the time the brick is sold
14 and placed into commerce, shall make the assessment. The
15 assessment, when it is made, shall be listed as a separate
16 line item on the bill labeled "Illinois Brick Safety
17 Education and Research Assessment". Assessments collected
18 are payable to the Council on a monthly basis by the 25th of
19 each month following the month of collection. If payment is
20 not made to the Council by the due date under this
21 subsection, an interest penalty of 1% of any amount unpaid
22 shall be added for each month or fraction of a month after
23 the date until final payment is made.

24 (c) The Council may establish an alternative means of
25 collecting the assessment if another means is found to be
26 more efficient and effective. The Council may establish a
27 late payment charge and rate of interest to be imposed on any
28 person who fails to remit or pay to the Council any amount
29 due under this Act.

30 (d) Pending disbursement pursuant to a program, plan, or
31 project, the Council shall invest funds collected through
32 assessments, and any other funds received by the Council,
33 only in obligations of the United States or any of its

1 agencies, in general obligations of any state or political
2 subdivision of a state, in any interest-bearing account or
3 certificate of deposit of a bank that is a member of the
4 Federal Reserve System, or in obligations fully guaranteed as
5 to principal and interest by the United States.

6 Section 20. Refunds. A purchaser of brick who has an
7 assessment added as a line item to the sale price may, by
8 application in writing to the Council, secure a refund in the
9 amount added. The refund shall be payable when the
10 application has been made to the Council within 60 days after
11 the assessment. Interest shall be allowed and paid at the
12 rate of 6% per annum upon the total amount of the assessment
13 imposed by this Act, except that if any assessment is
14 refunded within 90 days after an application for refund has
15 been made within the required 60 days after assessment or
16 within 90 days after the seller of the brick remits the
17 assessments collected to the Council, whichever is later, no
18 interest shall be allowed on the assessment. Each application
19 for refund by a purchaser of brick shall have attached to it
20 proof of assessment charged. A purchaser who obtains a refund
21 is not eligible for any benefits provided under the Council's
22 programs.

23 Section 25. Compliance. The circuit court is vested
24 with the jurisdiction specifically to enforce this Act, and
25 prevent or restrain any person from violating any provisions
26 of this Act. A successful action for compliance under this
27 Section may also require payment by the defendant of the
28 costs incurred by the Council in bringing the action.

29 Section 30. Lobbying restrictions. No funds collected
30 by the Council shall be used in any manner for influencing
31 legislation or elections, except that the Council may

1 recommend to the Director changes in this Act or other
2 statutes that would further the purpose of this Act.

3 Section 35. Pricing. In all cases, the price of brick
4 shall be determined by market forces. Consistent with the
5 antitrust laws, the Council may take no action, nor may any
6 provision of this Act be interpreted as establishing an
7 agreement to pass along to consumers the cost of the
8 assessment provided for in Section 15.

9 Section 40. Relation to other programs. Nothing in this
10 Act may be construed to preempt or supersede any other
11 program relating to brick education and research organized
12 and operated under the laws of the State of Illinois.