

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 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
17 Council under this Act at the time of application for
18 remedial action benefits afforded under the Fund, the
19 claimant is only eligible for reimbursement of remedial
20 action costs incurred in connection with a release from
21 that drycleaning facility, subject to any other
22 limitations under this Act.

23 (2) In the case of a claimant who is the owner of an

1 inactive drycleaning facility and was the owner or operator
2 of the drycleaning facility when it was an active
3 drycleaning facility, the claimant is only eligible for
4 reimbursement of remedial action costs incurred in
5 connection with a release from the drycleaning facility,
6 subject to any other limitations under this Act.

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

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

11 (2) At the time the release was discovered by the
12 claimant, the claimant and the drycleaning facility were in
13 compliance with the Agency reporting and technical
14 operating requirements.

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

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

20 (5) If the claimant is the owner or operator of an
21 active drycleaning facility, the claimant has provided to
22 the Council proof of implementation and maintenance of the
23 following pollution prevention measures:

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

1 (B) A prohibition on the discharge of wastewater
2 from drycleaning machines or of drycleaning solvent
3 from drycleaning operations to a sanitary sewer or
4 septic tank or to the surface or in groundwater.

5 (C) That every drycleaning facility:

6 (I) install a containment dike or other
7 containment structure around each machine, item of
8 equipment, drycleaning area, and portable waste
9 container in which any drycleaning solvent is
10 utilized, which shall be capable of containing
11 leaks, spills, or releases of drycleaning solvent
12 from that machine, item, area, or container. The
13 containment dike or other containment structure
14 shall be capable of at least the following: (i)
15 containing a capacity of 110% of the drycleaning
16 solvent in the largest tank or vessel within the
17 machine; (ii) containing 100% of the drycleaning
18 solvent of each item of equipment or drycleaning
19 area; and (iii) containing 100% of the drycleaning
20 solvent of the largest portable waste container or
21 at least 10% of the total volume of the portable
22 waste containers stored within the containment
23 dike or structure, whichever is greater.

24 Petroleum underground storage tank systems
25 that are upgraded in accordance with USEPA upgrade
26 standards pursuant to 40 CFR Part 280 for the tanks

1 and related piping systems and use a leak detection
2 system approved by the USEPA or IEPA are exempt
3 from this secondary containment requirement; and

4 (II) seal or otherwise render impervious those
5 portions of diked floor surfaces on which a
6 drycleaning solvent may leak, spill, or otherwise
7 be released.

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

11 (6) An active drycleaning facility has maintained
12 continuous financial assurance for environmental liability
13 coverage in the amount of at least \$500,000 at least since
14 the date of award of benefits under this Section or July 1,
15 2000, whichever is earlier. An uninsured drycleaning
16 facility that has filed an application for insurance with
17 the Fund by January 1, 2004, obtained insurance through
18 that application, and maintained that insurance coverage
19 continuously shall be considered to have conformed with the
20 requirements of this subdivision (6). To conform with this
21 requirement the applicant must pay the equivalent of the
22 total premiums due for the period beginning June 30, 2000
23 through the date of application plus a 20% penalty of the
24 total premiums due for that period.

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

1 (d) A claimant shall submit a completed application form
2 provided by the Council. The application shall contain
3 documentation of activities, plans, and expenditures
4 associated with the eligible costs incurred in response to a
5 release of drycleaning solvent from a drycleaning facility.
6 Application for remedial action account benefits must be
7 submitted to the Council on or before June 30, 2005.

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

11 (1) An eligible claimant submitting a claim for an
12 active drycleaning facility is responsible for the first
13 \$5,000 of eligible investigation costs and for the first
14 \$10,000 of eligible remedial action costs incurred in
15 connection with the release from the drycleaning facility
16 and is only eligible for reimbursement for costs that
17 exceed those amounts, subject to any other limitations of
18 this Act.

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

1 (f) Claimants are subject to the following limitations on
2 reimbursement:

3 (1) Subsequent to meeting the deductible requirements
4 of subsection (e), and pursuant to the requirements of
5 Section 75, reimbursement shall not exceed \$300,000 per
6 active drycleaning facility and \$50,000 per inactive
7 drycleaning facility.

8 (2) A contract in which one of the parties to the
9 contract is a claimant, for goods or services that may be
10 payable or reimbursable from the Council, is void and
11 unenforceable unless and until the Council has found that
12 the contract terms are within the range of usual and
13 customary rates for similar or equivalent goods or services
14 within this State and has found that the goods or services
15 are necessary for the claimant to comply with Council
16 standards or other applicable regulatory standards.

17 (3) A claimant may appoint the Council as an agent for
18 the purposes of negotiating contracts with suppliers of
19 goods or services reimbursable by the Fund. The Council may
20 select another contractor for goods or services other than
21 the one offered by the claimant if the scope of the
22 proposed work or actual work of the claimant's offered
23 contractor does not reflect the quality of workmanship
24 required or if the costs are determined to be excessive, as
25 determined by the Council.

26 (4) The Council may require a claimant to obtain and

1 submit 3 bids and may require specific terms and conditions
2 in a contract subject to approval.

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

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

17 (7) Neither the Council nor an eligible claimant is
18 responsible for payment for costs incurred that have not
19 been previously approved by the Council, unless an
20 emergency exists.

21 (8) The Council may determine the usual and customary
22 costs of each item for which reimbursement may be awarded
23 under this Section. The Council may revise the usual and
24 customary costs from time to time as necessary, but costs
25 submitted for reimbursement shall be subject to the rates
26 in effect at the time the costs were incurred.

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

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

16 (h) A drycleaning facility will be classified as active or
17 inactive for purposes of determining benefits under this
18 Section based on the status of the facility on the date a claim
19 is filed.

20 (i) Eligible claimants shall conduct remedial action in
21 accordance with the Site Remediation Program under the
22 Environmental Protection Act and Part 740 of Title 35 of the
23 Illinois Administrative Code and the Tiered Approach to Cleanup
24 Objectives under Part 742 of Title 35 of the Illinois
25 Administrative Code.

26 (j) Effective January 1, 2012, an active drycleaning

1 facility that has previously received or is currently receiving
2 reimbursement for the costs of a remedial action, as defined in
3 this Act, shall maintain continuous financial assurance for
4 environmental liability coverage in the amount of at least
5 \$500,000 until the earlier of (i) January 1, 2020 or (ii) the
6 date the Council determines the drycleaning facility is an
7 inactive drycleaning facility. Failure to comply with this
8 requirement will result in the revocation of the drycleaning
9 facility's existing license and in the inability of the
10 drycleaning facility to obtain or renew a license under Section
11 60 of this Act.

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

13 (415 ILCS 135/60)

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

15 Sec. 60. Drycleaning facility license.

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

19 (b) The Council shall issue an initial or renewal license
20 to a drycleaning facility on submission by an applicant of a
21 completed form prescribed by the Council, ~~and~~ proof of payment
22 of the required fee to the Department of Revenue, and, if the
23 drycleaning facility has previously received or is currently
24 receiving reimbursement for the costs of a remedial action, as
25 defined in this Act, proof of compliance with subsection (j) of

1 Section 40.

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

4 (1) \$500 for a facility that uses (i) 50 gallons or
5 less of chlorine-based or green drycleaning solvents
6 annually, (ii) 250 or less gallons annually of
7 hydrocarbon-based drycleaning solvents in a drycleaning
8 machine equipped with a solvent reclaimer, or (iii) 500
9 gallons or less annually of hydrocarbon-based drycleaning
10 solvents in a drycleaning machine without a solvent
11 reclaimer.

12 (2) \$500 for a facility that uses (i) more than 50
13 gallons but not more than 100 gallons of chlorine-based or
14 green drycleaning solvents annually, (ii) more than 250
15 gallons but not more 500 gallons annually of
16 hydrocarbon-based solvents in a drycleaning machine
17 equipped with a solvent reclaimer, or (iii) more than 500
18 gallons but not more than 1,000 gallons annually of
19 hydrocarbon-based drycleaning solvents in a drycleaning
20 machine without a solvent reclaimer.

21 (3) \$500 for a facility that uses (i) more than 100
22 gallons but not more than 150 gallons of chlorine-based or
23 green drycleaning solvents annually, (ii) more than 500
24 gallons but not more than 750 gallons annually of
25 hydrocarbon-based solvents in a drycleaning machine
26 equipped with a solvent reclaimer, or (iii) more than 1,000

1 gallons but not more than 1,500 gallons annually of
2 hydrocarbon-based drycleaning solvents in a drycleaning
3 machine without a solvent reclaimer.

4 (4) \$1,000 for a facility that uses (i) more than 150
5 gallons but not more than 200 gallons of chlorine-based or
6 green drycleaning solvents annually, (ii) more than 750
7 gallons but not more than 1,000 gallons annually of
8 hydrocarbon-based solvents in a drycleaning machine
9 equipped with a solvent reclaimer, or (iii) more than 1,500
10 gallons but not more than 2,000 gallons annually of
11 hydrocarbon-based drycleaning solvents in a drycleaning
12 machine without a solvent reclaimer.

13 (5) \$1,000 for a facility that uses (i) more than 200
14 gallons but not more than 250 gallons of chlorine-based or
15 green drycleaning solvents annually, (ii) more than 1,000
16 gallons but not more than 1,250 gallons annually of
17 hydrocarbon-based solvents in a drycleaning machine
18 equipped with a solvent reclaimer, or (iii) more than 2,000
19 gallons but not more than 2,500 gallons annually of
20 hydrocarbon-based drycleaning solvents in a drycleaning
21 machine without a solvent reclaimer.

22 (6) \$1,000 for a facility that uses (i) more than 250
23 gallons but not more than 300 gallons of chlorine-based or
24 green drycleaning solvents annually, (ii) more than 1,250
25 gallons but not more than 1,500 gallons annually of
26 hydrocarbon-based solvents in a drycleaning machine

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

5 (7) \$1,000 for a facility that uses (i) more than 300
6 gallons but not more than 350 gallons of chlorine-based or
7 green drycleaning solvents annually, (ii) more than 1,500
8 gallons but not more than 1,750 gallons annually of
9 hydrocarbon-based solvents in a drycleaning machine
10 equipped with a solvent reclaimer, or (iii) more than 3,000
11 gallons but not more than 3,500 gallons annually of
12 hydrocarbon-based drycleaning solvents in a drycleaning
13 machine without a solvent reclaimer.

14 (8) \$1,500 for a facility that uses (i) more than 350
15 gallons but not more than 400 gallons of chlorine-based or
16 green drycleaning solvents annually, (ii) more than 1,750
17 gallons but not more than 2,000 gallons annually of
18 hydrocarbon-based solvents in a drycleaning machine
19 equipped with a solvent reclaimer, or (iii) more than 3,500
20 gallons but not more than 4,000 gallons annually of
21 hydrocarbon-based drycleaning solvents in a drycleaning
22 machine without a solvent reclaimer.

23 (9) \$1,500 for a facility that uses (i) more than 400
24 gallons but not more than 450 gallons of chlorine-based or
25 green drycleaning solvents annually, (ii) more than 2,000
26 gallons but not more than 2,250 gallons annually of

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

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

15 (11) \$1,500 for a facility that uses (i) more than 500
16 gallons but not more than 550 gallons of chlorine-based or
17 green drycleaning solvents annually, (ii) more than 2,500
18 gallons but not more than 2,750 gallons annually of
19 hydrocarbon-based solvents in a drycleaning machine
20 equipped with a solvent reclaimer, or (iii) more than 5,000
21 gallons but not more than 5,500 gallons annually of
22 hydrocarbon-based drycleaning solvents in a drycleaning
23 machine without a solvent reclaimer.

24 (12) \$1,500 for a facility that uses (i) more than 550
25 gallons but not more than 600 gallons of chlorine-based or
26 green drycleaning solvents annually, (ii) more than 2,750

1 gallons but not more than 3,000 gallons annually of
2 hydrocarbon-based solvents in a drycleaning machine
3 equipped with a solvent reclaimer, or (iii) more than 5,500
4 gallons but not more than 6,000 gallons annually of
5 hydrocarbon-based drycleaning solvents in a drycleaning
6 machine without a solvent reclaimer.

7 (13) \$1,500 for a facility that uses (i) more than 600
8 gallons of chlorine-based or green drycleaning solvents
9 annually, (ii) more than 3,000 gallons but not more than
10 3,250 gallons annually of hydrocarbon-based solvents in a
11 drycleaning machine equipped with a solvent reclaimer, or
12 (iii) more than 6,000 gallons of hydrocarbon-based
13 drycleaning solvents annually in a drycleaning machine
14 equipped without a solvent reclaimer.

15 (14) \$1,500 for a facility that uses more than 3,250
16 gallons but not more than 3,500 gallons annually of
17 hydrocarbon-based solvents in a drycleaning machine
18 equipped with a solvent reclaimer.

19 (15) \$1,500 for a facility that uses more than 3,500
20 gallons but not more than 3,750 gallons annually of
21 hydrocarbon-based solvents used in a drycleaning machine
22 equipped with a solvent reclaimer.

23 (16) \$1,500 for a facility that uses more than 3,750
24 gallons but not more than 4,000 gallons annually of
25 hydrocarbon-based solvents in a drycleaning machine
26 equipped with a solvent reclaimer.

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

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

6 (1) in the case of an initial applicant, the quantity
7 of drycleaning solvents that the applicant estimates will
8 be used during his or her initial license year. A fee
9 assessed under this subdivision is subject to audited
10 adjustment for that year; or

11 (2) in the case of a renewal applicant, the quantity of
12 drycleaning solvents actually purchased in the preceding
13 license year.

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

17 (d) A license issued under this Section shall expire one
18 year after the date of issuance and may be renewed on
19 reapplication to the Council and submission of proof of payment
20 of the appropriate fee to the Department of Revenue in
21 accordance with subsections (c) and (e). At least 30 days
22 before payment of a renewal licensing fee is due, the Council
23 shall attempt to:

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

26 (2) submit a license fee payment form to the licensed

1 operator of each drycleaning facility.

2 (e) An operator of a drycleaning facility shall submit the
3 appropriate application form provided by the Council with the
4 license fee in the form of cash, ~~or~~ guaranteed remittance, or
5 credit card to the Department of Revenue. The license fee
6 payment form and the actual license fee payment shall be
7 administered by the Department of Revenue under rules adopted
8 by that Department.

9 (f) The Department of Revenue shall issue a proof of
10 payment receipt to each operator of a drycleaning facility who
11 has paid the appropriate fee in cash or by guaranteed
12 remittance or credit card. However, the Department of Revenue
13 shall not issue a proof of payment receipt to a drycleaning
14 facility that is liable to the Department of Revenue for a tax
15 imposed under this Act. The original receipt shall be presented
16 to the Council by the operator of a drycleaning facility.

17 (g) (Blank).

18 (h) The Council and the Department of Revenue may adopt
19 rules as necessary to administer the licensing requirements of
20 this Act.

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