

**Effective: [See Text Amendments]**

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 105. Schools ([Refs & Annos](#))

▢ Health and Safety

→ Act 105. Asbestos Abatement Act ([Refs & Annos](#))

**105/1. Short title**

§ 1. Short title. This Act shall be known and may be cited as the "Asbestos Abatement Act".

**Effective: [See Text Amendments]****105/2. Legislative declaration**

§ 2. Legislative declaration. The General Assembly finds that:

(a) substantial amounts of asbestos materials were used throughout school buildings during the period from 1946 to 1972 for fireproofing, soundproofing, decorative and other purposes;

(b) exposure to asbestos fibers and particles in the air over a long period of time has been linked by reputable medical and scientific authorities to a significant increase in the incidence of disease, such as asbestosis, bronchogenic carcinoma, mesothelioma, and other malignancies;

(c) precise scientific data as to the levels at which asbestos materials constitute a hazard to health in educational settings are not yet available and may not be available for many years to come because of the long period of time which elapses between the onset of exposure and the appearance of clinically detectable illness; however, mesothelioma has been found among individuals exposed to asbestos in some nonoccupational settings; and

(d) in view of the fact that the State of Illinois has compulsory attendance laws for children of school age and these children must be educated in a safe and healthy environment, the presence and condition of asbestos in the schools is of special concern to the General Assembly.

Therefore, it is the purpose of this Act to provide for the identification, containment or removal of those asbestos materials that constitute a significant health hazard and repair or maintenance of those asbestos materials that do not constitute a significant health hazard in schools to students, school personnel, parents and visitors to such schools, and to provide financial assistance to elementary and secondary schools within this State as provided by law.

**Effective: [See Text Amendments]****105/3. Definitions**

§ 3. Definitions. As used in this Act: (a) "Asbestos" means the asbestiform varieties of chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(b) "Asbestos materials" means materials formed by mixing asbestos fibers with other products, including but not limited to rock wool, plaster, cellulose, clay, vermiculite, perlite and a variety of adhesives, and which contain more than 1% asbestos by weight. Some of these materials may be sprayed on surfaces or applied to surfaces in the form of plaster or a textured paint.

(c) "School" means any school district or public, private or nonpublic day or residential educational institution that provides elementary or secondary education for grade 12 or under.

(d) "Local educational agency" means:

(1) Any local education agency as defined in Section 198 of the Elementary and Secondary Education Act of 1965 ([20 U.S.C. 3381](#)).

(2) The owner of any nonpublic, nonprofit elementary or secondary school building.

(3) The governing authority of any school operated under the defense dependents' education system provided for under the Defense Department's Education Act of 1978 ([20 U.S.C. 921, et seq.](#)).

(e) "Response action" means a method, including removal, encapsulation, enclosure, repair, operations and maintenance, that protects human health and the environment from friable ACM.

(f) "Asbestos containing building materials" or ACM means surfacing asbestos containing material or ACM, thermal system insulation ACM or miscellaneous ACM that is found in or on interior structural members or other parts of a school building.

(g) "Friable" when referring to material in a school building means that the material, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable materials after such previously nonfriable material becomes damaged to the extent that, when dry, it may be crumbled, pulverized, or reduced to powder by hand pressure.

(h) "Asbestos Abatement Contractor" means any entity that engages in the removal, enclosure, or encapsulation of asbestos containing materials for any school.

(i) "Response action contractor" means any entity that engages in response action services for any school.

(j) "Friable material containment" means the encapsulation or enclosure of any friable asbestos material in a facility.

(k) "Enclosure" means the construction of airtight walls and ceilings between the asbestos material and the educational facility environment, or around surfaces coated with asbestos materials, or any other appropriate scientific procedure as determined by the Department which prevents the release of asbestos materials.

(l) "Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surfaces (bridging encapsulant or penetrates the material and binds its components together (penetrating encapsulant)).

- (m) "Department" means the Department of Public Health.
- (n) "Director" means the Director of Public Health.
- (o) "School personnel" means any employee of a school.
- (p) "Student" means any student enrolled in a school.
- (q) "School Building" means:
- (1) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food.
  - (2) Any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education.
  - (3) Any other facility used for the instruction or housing of students or for the administration of educational or research programs.
  - (4) Any maintenance, storage, or utility facility, including any hallway essential to the operation of any facility described in this definition of "school building" under items (1), (2), or (3).
  - (5) Any portico or covered exterior hallway or walkway.
  - (6) Any exterior portion of a mechanical system used to condition interior space.
- (r) "Asbestos worker" means an individual who cleans, removes, encapsulates, encloses, hauls or disposes of friable asbestos material in schools as defined in this Act.
- (s) "Nonfriable" means material in a school building which, when dry, may not be crumbled, pulverized, or reduced to powder by hand pressure.
- (t) "Management plan" means a plan developed for a local educational agency for the management of asbestos in its school buildings pursuant to the federal Asbestos Hazard Emergency Response Act of 1986 [FN1] and the regulations promulgated thereunder.
- (u) "Management planner" means an individual licensed by the Department to prepare management plans.
- (v) "Project designer" means an individual licensed by the Department to design response actions for school buildings.
- (w) "Asbestos inspector" means an individual licensed by the Department to perform inspections of schools for the presence of asbestos containing materials.

[FN1] [15 U.S.C.A. § 2641 et seq.](#)

**Effective: [See Text Amendments]**

#### **105/4. Response action**

§ 4. Response action. Schools shall undertake and complete such response action as may be required by the federal Asbestos Hazard Emergency Response Act of 1986, [FN1] the regulations promulgated thereunder, and the rules promulgated by the Department pursuant to the Asbestos Abatement Act. [FN2] Response actions shall be undertaken and completed within the timeframe required by the federal Asbestos Hazard Emergency Response Act of 1986 and the regulations promulgated thereunder.

[FN1] 15 U.S.C.A. § 2641 et seq.

[FN2] 105 ILCS 105/1 et seq.

**Effective: [See Text Amendments]**

#### **105/5. § 5. Repealed by P.A. 86-416, § 2, eff. Jan. 1, 1990**

**Effective: [See Text Amendments]**

#### **105/5a. Response Contractor Indemnification Fund**

§ 5a. Response Contractor Indemnification Fund. Every response action contract under this Act for which a local educational agency chooses to seek indemnification under the Response Action Contractor Indemnification Act, [FN1] as now or hereafter amended, and which is approved by the Department for such indemnification, shall provide that 5% of the amount of such contract shall be set aside by the local educational agency in a reserve fund for payment directly to the Department for deposit into the Response Contractors Indemnification Fund pursuant to rules adopted by the Department. The decision regarding whether or not to seek indemnification pursuant to the Response Action Contractor Indemnification Act shall be solely within the purview of the school. Nothing in this Act shall be interpreted to require schools to seek such indemnification.

[FN1] 415 ILCS 100/1 et seq.

**Effective: [See Text Amendments]**

#### **105/6. Powers and Duties of the Department**

§ 6. Powers and Duties of the Department.

(a) The Department is empowered to promulgate any rules necessary to ensure proper implementation and administration of this Act and of the federal Asbestos Hazard Emergency Response Act of 1986, [FN1] and the regulations promulgated thereunder.

(b) Rules promulgated by the Department shall include, but not be limited to:

(1) all rules necessary to achieve compliance with the federal Asbestos Hazard Emergency Response Act of 1986 and the regulations promulgated thereunder;

(2) rules providing for the training and licensing of persons and firms to perform asbestos inspection and air

sampling; to perform abatement work; and to serve as asbestos abatement contractors, management, planners, project designers, project supervisors, project managers and asbestos workers for public and private secondary and elementary schools; and any necessary rules relating to the correct and safe performance of those tasks; and

(3) rules for the development and submission of asbestos management plans by local educational agencies, and for review and approval of such plans by the Department.

(c) In carrying out its responsibilities under this Act, the Department shall:

(1) publish a list of persons and firms licensed pursuant to this Act, except that the Department shall not be required to publish a list of licensed asbestos workers;

(2) require each local educational agency to maintain records of asbestos-related activities, which shall be made available to the Department upon request; and

(3) require local educational agencies to submit to the Department for review and approval all asbestos-related response action contracts for which the local educational agency seeks indemnification under the Response Action Contractor Indemnification Act, [FN2] and with respect to such response action contracts, to collect from the local educational agency and deposit in the Response Contractors Indemnification Fund 5% of the amount of each response action contract, as required under the Response Action Contractor Indemnification Act.

(d) Adopt rules for the collection of fees for training course approval; and for licensing of inspectors, management planners, project designers, contractors, supervisors, air sampling professionals, project managers and workers.

[FN1] [15 U.S.C.A. § 2641 et seq.](#)

[FN2] [415 ILCS 100/1 et seq.](#)

**Effective: [See Text Amendments]**

#### **105/6a. Administrative Procedure Act; applicability**

§ 6a. The provisions of the Illinois Administrative Procedure Act [FN1] are hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Public Health under this Act, except that in case of conflict between "The Illinois Administrative Procedure Act" and this Act the provisions of this Act shall control, and except that Section 5-35 of the Illinois Administrative Procedure Act [FN2] relating to procedures for rule-making does not apply to the adoption of any rule required by federal law in connection with which the Department is precluded by law from exercising any discretion.

[FN1] [5 ILCS 100/1-1 et seq.](#)

[FN2] [5 ILCS 100/5-35.](#)

**Effective: [See Text Amendments]**

**105/6b. Review under Administrative Review Law**

§ 6b. All final administrative decisions of the Department hereunder shall be subject to judicial review pursuant to the provisions of the "Administrative Review Law", as amended, [FN1] and the rules adopted pursuant thereto. The term "Administrative Decision" is defined as in Section 3-101 of the Code of Civil Procedure. [FN2]

[FN1] 735 ILCS 5/3-101 et seq.

[FN2] 735 ILCS 5/3-101.

**Effective: [See Text Amendments]**

**105/6c. Denial, suspension or revocation of license; expungement from state list; hearings**

§ 6c. The Director after notice and opportunity for hearing to the contractor, applicant or license holder may deny, suspend, or revoke a license or expunge such person from the state list in any case in which he or she finds that there has been a substantial failure to comply with the provisions of this Act or the standards, rules and regulations established by virtue thereof.

Such notice shall be provided by certified mail or by personal service setting forth the particular reasons for the proposed action and fixing a date, not less than 15 days from the date of such mailing or service, at which time the applicant, contractor, or license holder shall be given an opportunity to request hearing.

The hearing shall be conducted by the Director or by an individual designated in writing by the Director as Hearing Officer to conduct the hearing. On the basis of any such hearing, or upon default of the contractor, applicant or license holder, the Director shall make a determination specifying his or her findings and conclusions. A copy of such determination shall be sent by certified mail or served personally upon the applicant, contractor or license holder.

The procedure governing hearings authorized by this Section shall be in accordance with rules promulgated by the Department. A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the Director and Hearing Officer. All testimony shall be reported but need not be transcribed unless the decision is sought to be reviewed pursuant to the "Administrative Review Law". [FN1] A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies. The Director or Hearing Officer, shall upon his or her own motion, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas and subpoenas duces tecum issued under the terms of this Act may be served by any person of legal age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the Circuit Court of this State, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Director or Hearing Officer, such fees shall be paid in the same manner as

other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department in its discretion may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum so issued as above stated shall be served in the same manner as a subpoena issued by a circuit court.

Any circuit court of this State, upon the application of the Director, or upon the application of any other party to the proceeding, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Director or Hearing Officer conducting an investigation or holding a hearing authorized by this Act, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before the court.

The Director or Hearing Officer, or any party in an investigation or hearing before the Department, may cause the depositions of witnesses within the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end compel the attendance of witnesses and the production of books, papers, records, or memoranda.

[FN1] 735 ILCS 5/3-101 et seq.

**Effective: [See Text Amendments]**

#### **105/7. Consistency with federal law**

§ 7. Consistency with federal law. Rules and regulations issued pursuant to this Act, including those governing the preparation of a list of contractors and the removal of contractors therefrom as provided for in Section 10, shall not be inconsistent with rules and regulations promulgated by the United States Environmental Protection Agency pursuant to the Toxic Substances Control Act, [FN1] the Clean Air Act [FN2] or other applicable federal statutes.

[FN1] 15 U.S.C.A. § 2601 et seq.

[FN2] 42 U.S.C.A. § 7401 et seq.

**Effective: [See Text Amendments]**

#### **105/8. § 8. Repealed by P.A. 86-416, § 2, eff. Jan. 1, 1990**

**Effective: [See Text Amendments]**

#### **105/9. State Funding**

§ 9. State Funding. Funding sources for State funding with respect to costs of corrective action shall include appropriations from the General Revenue Fund, proceeds from litigation against manufacturers, distributors and contractors of asbestos products, funds provided under the provisions of the federal Asbestos School Hazard Abatement Act of 1984, [FN1] or any combination thereof. The Department shall request appropriations from

any of these funds based on its review of school funding needs and include such in its annual budget request.

[FN1] [20 U.S.C.A. § 4011 et seq.](#)

**Effective: [See Text Amendments]**

#### **105/9a. Reimbursement for corrective action**

§ 9a. Reimbursement for corrective action. The Department shall, from funds appropriated for this purpose, reimburse schools which have undertaken corrective action. Such schools, upon completion of an inspection by the Department, shall be eligible for reimbursement only for those projects found to have been conducted in accordance with the provisions of this Act and the rules promulgated thereunder. Schools shall apply for such reimbursement to the Department on forms designed and provided by the Department.

The amount of reimbursement for which a public school district is eligible shall be calculated by the Department based upon a Grant Index developed by the State Board of Education. This Grant Index shall be based upon the equalized assessed valuation of the school district and other measures of relative wealth to determine the percentage of the total cost of corrective action for which reimbursement shall be authorized. The Grant Index for any school district is equal to one minus the ratio of the district's equalized assessed valuation per pupil in weighted daily average attendance to the equalized assessed valuation per pupil in weighted average daily attendance of the district located at the ninetieth percentile for all districts of the same type. The Grant Index for any school district shall be not less than .50 and no greater than 1.00. The product of the district's Grant Index and the project cost, as determined by the Department for approved corrective action, equals the total amount that shall be reimbursed to the school according to the provisions of this Section. All non-public schools shall be eligible for reimbursement in an amount equal to 50% of the cost of corrective action.

Out of funds appropriated for such purpose, 20% of the amount of reimbursement to which any school is determined entitled shall be paid in each of 5 successive fiscal years. The Department shall request an annual appropriation in an amount sufficient to cover all expected reimbursements to be paid out in that fiscal year.

For purposes of reimbursement under this Section, corrective action means removal, encapsulation or enclosure. Schools reimbursed pursuant to this Section for corrective action shall not be eligible for grants under Section 9b with respect to the corrective action for which they are so reimbursed.

**Effective: [See Text Amendments]**

#### **105/9b. Grants for asbestos abatement work undertaken on or after January 1, 1986**

§ 9b. Grants for asbestos abatement work undertaken on or after January 1, 1986. Schools which undertake corrective action on or after January 1, 1986 shall be eligible for grants for asbestos abatement activities conducted in accordance with this Act and the rules promulgated thereunder. Funds shall be provided only to those schools which have been inspected pursuant to this Act. Schools which desire abatement grants shall apply to the Department for such grants on forms designed and provided by the Department. The Department shall evaluate applications to establish priorities for funding recognizing the degree of health hazard present and shall categorize school needs using a numerical ranking.

In conjunction with the State Board of Education, the Department shall calculate the amount of grant for which a public school district is eligible, based upon a Grant Index developed by the State Board of Education. The Grant Index shall be based upon the equalized assessed valuation of the school district and other measures of relative wealth to determine the percentage of the total cost of corrective action for which grants shall be authorized. The Grant Index for any school district is equal to one minus the ratio of the district's equalized assessed valuation per pupil in weighted daily average attendance to the equalized assessed valuation per pupil in weighted average daily attendance of the district located at the ninetieth percentile for all districts of the same type. The Grant Index for any school district shall be not less than .50 and no greater than 1.00. The product of the district's Grant Index and the project cost, as determined by the Department for approved corrective action, equals the amount that shall be expended on behalf of the school. All non-public schools shall be eligible for grants in an amount equal to 50% of the cost of corrective action.

In conjunction with the Capital Development Board, the Department shall issue grants to schools for corrective action. The Capital Development Board shall, in conjunction with the schools, contract with a contractor whose name appears on the Department's list of approved contractors for the corrective action determined necessary according to provisions of this Act and the rules promulgated thereunder. All such contractors shall be prequalified as may be required by the Illinois Purchasing Act. [FN1] All contracts entered into by the schools and the Capital Development Board shall include a provision that all work to be conducted under that contract shall be undertaken in accordance with this Act and the rules promulgated thereunder. The Capital Development Board shall exercise general supervision over corrective action financed pursuant to the provisions of this Act and the rules promulgated thereunder in schools. The Capital Development Board shall request an annual appropriation in an amount sufficient to cover all expected grants to be awarded in that year. For purposes of reimbursement under this Section, corrective action means removal, encapsulation or enclosure.

A school district may levy a tax in accordance with Section 17-2.11 of "The School Code" [FN2] in order to provide local funding for corrective action ordered under this Act. A school may use federal loans or grants to finance the cost of corrective action, but no State funding shall be used to repay any federal loan received by a school for asbestos abatement projects.

[FN1] [30 ILCS 505/1 et seq.](#) (Repealed).

[FN2] [105 ILCS 5/17-2.11.](#)

**Effective: [See Text Amendments]**

#### **105/9c. Corrective action; recovery of costs; reimbursement**

§ 9c. (a) Public school districts that have received corrective action reimbursement or grants pursuant to this Act shall cooperate fully with the Attorney General in litigation to recover costs of corrective action. The Attorney General may, in his discretion, take exclusive charge of such litigation. Any amounts recovered, less costs of litigation, shall be divided pro rata between the grantee public school district and the Asbestos Abatement Fund, based upon the percentage of costs of corrective action borne by the State and the school district, respectively.

(b) Any nonpublic school which has received a grant or reimbursement pursuant to this Act, and which subsequently recovers costs of corrective action through litigation, shall reimburse the State from such recovery.

The percentage of the recovery reimbursed to the State shall equal the percentage of costs of corrective action initially borne by the State. All reimbursements paid to the State under this subsection shall be deposited in the Asbestos Abatement Fund.

**Effective: [See Text Amendments]**

#### **105/10. Asbestos Abatement Contractors**

§ 10. Asbestos Abatement Contractors. The Department shall prepare a list in cooperation with appropriate State and federal agencies on an annual basis of asbestos abatement contractors familiar with and capable of complying with all applicable federal and State standards for asbestos containment and removal. Additional asbestos abatement contractors wishing to be placed on this list shall notify the Department. The Department shall evaluate this request based on the training and experience of such a potential asbestos abatement contractor and render a decision. If the Department denies the request, such contractor may appeal such a decision pursuant to the provisions of the "Administrative Review Law". [FN1] Such list shall be made available to all school districts. In contracting for response action services, schools shall select an asbestos abatement contractor from the Department's list.

[FN1] [735 ILCS 5/3-101 et seq.](#)

**Effective: [See Text Amendments]**

#### **105/10a. Licensing**

§ 10a. Licensing. No inspector, management planner, project designer, project manager, air sampling professional, asbestos abatement contractor, worker or project supervisor may be employed as a response action contractor unless that individual or entity is licensed by the Department. Those individuals and entities wishing to be licensed shall make application on forms prescribed and furnished by the Department. A license shall expire annually according to a schedule determined by the Department. Applications for renewal of licenses shall be filed with the Department at least 30 days before the expiration date. When a licensure examination is required, the application for licensure shall be submitted to the Department at least 30 days prior to the date of the scheduled examination. The Department shall evaluate each application based on its minimum standards for licensure, promulgated as rules, and render a decision. Such standards may include a requirement for the successful completion of a course of training approved by the Department. If the Department denies the application, the applicant may appeal such decision pursuant to the provisions of the "Administrative Review Law". [FN1]

[FN1] [735 ILCS 5/3-101 et seq.](#)

**Effective: [See Text Amendments]**

#### **105/10b. Certified Industrial Hygienists**

§ 10b. Certified Industrial Hygienists. For purposes of this Act and the rules promulgated thereunder, the Department shall use the list of certified industrial hygienists as prepared by the American Board of Industrial Hygiene.

**Effective: [See Text Amendments]**

### **105/11. Recordkeeping**

§ 11. Recordkeeping. Each school district shall:

- (a) Keep a record of each asbestos abatement project that is performed in schools; and
- (b) Make that record available to the Department at any reasonable time.

**Effective: [See Text Amendments]**

### **105/12. Limitations**

§ 12. Limitations. Schools shall not undertake any response action in a manner that would endanger the health or safety of school personnel or students; provided, however, schools shall not undertake response action to remove friable asbestos material during which time school personnel or students are using or occupying an educational facility unless appropriate safety measures are instituted which protect the health and safety of school personnel and students. Neither school personnel nor students shall use or occupy a school building containing friable asbestos material in which response action has not been undertaken or completed within the period provided by the federal Asbestos Hazard Emergency Response Act [FN1] or the regulations promulgated thereunder.

[FN1] 15 U.S.C.A. § 2641 et seq.

**Effective: [See Text Amendments]**

### **105/12a. Emergency stop work orders**

§ 12a. Emergency stop work orders. Whenever the Department finds that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearing, issue an order reciting the existence of such an emergency and then require that such action be taken as it may deem necessary to meet the emergency, including but not limited to the issuance of a stop work order and the immediate removal of a contractor or contractors from the list provided for in Section 10. Notwithstanding any other provision in this Act, such order shall be effective immediately. The State's Attorney and Sheriff of the county in which the school is located shall enforce the order after receiving notice thereof. Any contractor affected by such an order is entitled, upon request, to a hearing as provided for in rules and regulations promulgated pursuant to this Act. When such conditions are abated, in the opinion of the Department, the Department may authorize the reinstatement of the activities and inclusion on the list of contractors of those activities and contractors which were the subject of a stop work order.

**Effective: [See Text Amendments]**

### **105/12b. Civil Penalties**

§ 12b. Civil Penalties. The Department is empowered to assess civil penalties against a contractor inspector, management planner, project designer, supervisor, worker, project manager, or air sampling professional for vi-

ulations of this Act and the rules promulgated thereunder, pursuant to rules for such penalties established by the Department.

**Effective: [See Text Amendments]**

#### **105/12c. Disposal under emergency conditions**

§ 12c. Under emergency conditions, an employee of a school district may clean or dispose of less than 3 linear feet or 3 square feet of friable or non-friable asbestos containing material in schools without meeting the definition of an "asbestos worker" as defined in this Act, provided the employee has completed the maximum asbestos awareness program provided for in federal law or rules. "Emergency conditions" for the purpose of this Section shall mean:

- 1) the facility is without heat, water, gas, or electric; or
- 2) the facility is unable to keep outside elements such as water from entering the interior of the structure; or
- 3) the dislodging or falling of less than 3 linear feet or 3 square feet of asbestos containing materials.

The Department may further define, by rule, what circumstances constitute an "emergency condition" under this Section. The Department may also set forth, by rule, the training or awareness program a school employee must meet as a prerequisite to conducting of asbestos clean-up or disposal pursuant to this Section.

**Effective: [See Text Amendments]**

#### **105/13. Federal funding**

§ 13. Federal funding. To the extent that federal funds become available for the removal of asbestos from schools and subject to any limitations which may be imposed, such federal funds shall be used in lieu of State financing of corrective actions and for any administrative costs incurred by the Department in the administration of this Act.

**Effective: [See Text Amendments]**

#### **105/14. Enforcement**

§ 14. Enforcement. Notwithstanding the existence or pursuit of any other remedy, the Director may, in the manner provided by law, in the name of the People of the State and through the Attorney General who shall represent the Director in the proceedings, maintain an action for injunction or other relief or process against any school, the governing body thereof and any other person or unit of local government to enforce and compel compliance with the provisions of this Act, the rules and regulations promulgated thereunder and any order entered for any response action pursuant to this Act and such rules and regulations.

**Effective: [See Text Amendments]**

#### **105/15. Liability insurance**

§ 15. Liability insurance. The governing body of each public school which is ordered to undertake any corrective action pursuant to this Act may thereupon insure against any loss or liability of the school district, members of the school board, school employees, student teachers and authorized volunteer personnel by reason of civil damage claims and suits, including death and bodily injury and property damage actions and the defense thereof, for injuries and damages allegedly resulting for any negligent or wrongful acts or omissions allegedly committed by any of the persons to be so insured, during the scope of employment or under direction of the school board, in connection with any corrective action which any such school is ordered to take pursuant to the provisions of this Act.

**Effective: [See Text Amendments]**

#### **105/15a. Contractor's Certificates of Financial Responsibility**

§ 15a. Contractor's Certificates of Financial Responsibility. Each contractor wishing to be placed on the Department's approved list of contractors shall submit to the Department a certificate documenting that the contractor carries liability insurance, self insurance, group insurance, group self insurance, a letter of credit or bond in an amount of at least \$500,000 for work performed pursuant to the Asbestos Abatement Act and the rules promulgated thereunder. No contractor may be placed on the approved list in the absence of such a certificate. All contractors presently on the approved list shall submit said certificate within 90 days of the effective date of this amendatory Act of 1985, or the Department shall remove their names from the approved list.

Each contractor shall maintain on file with the Department a current certificate of financial responsibility throughout the entire length of time the contractor's name appears on the Department's list of approved contractors. A contractor shall notify the Department of any change in the status of a certificate which has been filed including expiration, renewal, or alteration of the terms of the certificate.

**Effective: [See Text Amendments]**

#### **105/16. Illinois School Asbestos Abatement Fund**

§ 16. Illinois School Asbestos Abatement Fund. All fees and penalties collected by the Department pursuant to this Act shall be deposited into the Illinois School Asbestos Abatement Fund which is hereby created in the State Treasury. Subject to appropriation, all monies deposited in the Illinois School Asbestos Abatement Fund under this Act shall be available to the Department for its administration of this Act and of the federal Asbestos Hazard Emergency Response Act of 1986. [FN1] Subject to appropriation, all moneys deposited in the Illinois School Asbestos Abatement Fund shall be available to the Department of Public Health for administration of the Asbestos Abatement Act and the Commercial and Public Building Asbestos Abatement Act. [FN2]

[FN1] [15 U.S.C.A. § 2641 et seq.](#)

[FN2] [225 ILCS 207/1 et seq.](#)

Current through P.A. 96-327, with the exception of 321, of the 2009 Reg. Sess.  
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**Effective: [See Text Amendments]**

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 20. Executive Branch

▢ Capital Development Board

→ Act 3120. Asbestos Abatement Authority Act

### **3120/0.01. Short title**

§ 0.01. Short title. This Act may be cited as the Asbestos Abatement Authority Act.

**Effective: [See Text Amendments]**

### **3120/1. Definitions**

§ 1. Definitions. As used in this Act: (a) "State entity" means the State of Illinois and all of its agencies, State universities and colleges, and all corporate outgrowths thereof.

(b) "State governmental building" means a structure owned by a State entity.

**Effective: [See Text Amendments]**

### **3120/2. Capital Development Board; transfer of functions**

§ 2. Capital Development Board; transfer of functions. The Illinois Asbestos Abatement Authority heretofore created by this Act is abolished; the appointments of the non-voting members theretofore advising and assisting that former Authority pursuant to the provisions of this Act are hereby terminated; and the Capital Development Board shall succeed to, assume and exercise all rights, powers, duties and responsibilities held and performed by the former Illinois Asbestos Abatement Authority under this Act, and under the rules and regulations promulgated thereunder, prior to the abolition of that Authority by this amendatory Act of 1991. All books, records, documents and pending business in any way pertaining to the former Illinois Asbestos Abatement Authority (excluding all investigations and legal proceedings heretofore or hereafter initiated pursuant to Section 4 of this Act, which shall remain under the supervision and direction of the Attorney General as provided in that Section) are transferred to the Capital Development Board; provided that any rights or obligations of any person under any contract made by, or under any rules or regulations promulgated by, such former Authority shall be unaffected thereby. No rules or regulations promulgated by the former Illinois Asbestos Abatement Authority pursuant to an exercise of any right, power, duty or responsibility assumed by or transferred to the Capital Development Board shall be affected by this amendatory Act of 1991, and all such rules and regulations shall become those of the Capital Development Board until such time as they are amended or repealed by the Capital Development Board in accordance with law.

**Effective: [See Text Amendments]**

### **3120/3. Responsibilities of the Capital Development Board**

§ 3. Responsibilities of the Capital Development Board. The Capital Development Board shall develop and implement a program for the identification and abatement of asbestos in all State governmental buildings and shall adopt rules and regulations consistent with this purpose. The Capital Development Board shall exercise its best efforts to assist the Attorney General in the exercise of the duties under Section 4 of this Act.

**Effective: August 12, 2004**

#### **3120/4. Environmental Enforcement-Asbestos Litigation Division**

§ 4. Environmental Enforcement-Asbestos Litigation Division. There is created within the office of the Attorney General an Environmental Enforcement-Asbestos Litigation Division. The Division, under the supervision and the direction of the Attorney General, shall enforce laws, rules, and regulations that protect the State's environment and shall investigate and initiate legal proceedings necessary to ensure maximum recovery of asbestos abatement costs for all State entities of this State. All asbestos abatement costs recovered by the Division, including any award of damages, penalties, and attorney's fees, shall be deposited in the Asbestos Abatement Fund in the State Treasury.

**Effective: August 12, 2004**

#### **3120/5. Asbestos Abatement Fund**

§ 5. Asbestos Abatement Fund. There is created in the State Treasury the Asbestos Abatement Fund into which shall be deposited all grants, gifts, attorney's fees and recoveries received for the purpose of asbestos abatement in the State governmental buildings. Such funds shall be expended pursuant to appropriations made by the General Assembly to the Capital Development Board for asbestos surveys and abatement purposes and to the Attorney General for the operations of the Environmental Enforcement-Asbestos Litigation Division.

Current through P.A. 96-327, with the exception of 321, of the 2009 Reg. Sess.  
END OF DOCUMENT

**Effective: [See Text Amendments]**

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 20. Executive Branch

▢ Illinois Development Finance Authority

→ Act 3510. Asbestos Abatement Finance Act ([Refs & Annos](#))

**3510/0.01. Short title**

§ 0.01. Short title. This Act may be cited as the Asbestos Abatement Finance Act.

**Effective: [See Text Amendments]****3510/1. Findings and declaration of policy and purpose**

§ 1. Findings and declaration of policy and purpose. The General Assembly finds and declares that:

(a) Substantial amounts of asbestos materials were used throughout buildings and other facilities, including landfills and other containment and storage facilities, owned, operated, and maintained by private institutions and public corporations during the period from 1946 to 1972 for fireproofing, soundproofing, decorative, and other purposes.

(b) Exposure to asbestos fibers and particles in the air over an extended period of time has been linked by reputable medical and scientific authorities to a significant increase in the incidence of disease, such as asbestosis, bronchogenic carcinoma, mesothelioma, and other malignancies.

(c) Based upon existing scientific evidence and the long-standing widespread and public incidence of exposure to asbestos, there is an urgent and immediate need to finance costs of asbestos abatement projects by public corporations and private institutions; and the financing of the costs of asbestos abatement projects will promote the health, safety, and welfare of the citizens of this State and offer significant economic benefits and an improved quality of life for all citizens of this State.

(d) Authorizing the Authority to borrow money in the public and private capital markets in order to provide funds to public corporations and private institutions will assist those public corporations and private institutions in carrying out asbestos abatement projects at lower overall borrowing costs and on more favorable terms than is otherwise available.

(e) The provisions of this Act are in the public interest, for the public benefit, and serve a public purpose.

**Effective: January 01, 2004****3510/2. Definitions**

§ 2. Definitions. The following words and terms, whether or not capitalized, have the following meanings, unless the context or use clearly requires otherwise:

"Asbestos" means asbestos as defined and used in the federal Asbestos Hazard Emergency Response Act of 1986, as now or hereafter amended, [FN1] including the regulations promulgated under that Act.

"Asbestos Abatement Project" means asbestos inspection, planning and response action under and within the meaning of the federal Asbestos Hazard Emergency Response Act of 1986, as now or hereafter amended, to abate a health hazard caused directly or indirectly by the existence of asbestos in any building or other facility owned, operated, maintained or occupied in whole or in part by a public corporation or a private institution.

"Authority" means the Illinois Finance Authority.

"Board" means the Board of the Authority.

"Bond" means any bond, note or other evidence of indebtedness issued by the Authority under this Act.

"Chairman" means the Chairman of the Authority.

"Cost" as applied to an asbestos abatement project means the costs incurred or to be incurred by a public corporation or a private institution in the removal, encapsulation, enclosure, repair, or maintenance of asbestos in any building or other facility owned, operated, maintained or occupied in whole or in part by a public corporation or a private institution, including all incidental costs such as engineering, architectural, consulting and legal expenses incurred in connection with an asbestos abatement project, plans, specifications, surveys, estimates of costs and revenues, finance charges, interest before and during construction of an asbestos abatement project and, for up to 18 months after completion of construction, other expenses necessary or incident to determining the need, feasibility or practicability of an asbestos abatement project, administrative expenses, and such other costs, charges and expenses as may be necessary or incident to the construction or financing of any asbestos abatement project. As used in this Act, "cost" means not only costs of an asbestos abatement project expected to be incurred in the future, but costs already incurred and paid by a public corporation or a private institution so that a public corporation or a private institution shall be permitted to reimburse itself for those costs previously incurred and paid.

"Person" means any individual, firm, partnership, association, or corporation, separately or in any combination.

"Private institution" means any not-for-profit organization within the meaning of [Section 501\(c\)\(3\) of the Internal Revenue Code of 1986](#), as now or hereafter amended, [FN2] including any private or nonpublic pre-school, day care center, day or residential educational institution that provides elementary or secondary education for grades 12 or under, any private or nonpublic college or university, or any hospital, health care or long term care institution.

"Private institution security" means any bond, note, loan agreement, or other evidence of indebtedness which a private institution is legally authorized to issue or enter into for the purpose of financing or refinancing the costs of an asbestos abatement project.

"Public corporation" means any body corporate organized by or under the laws of this State to carry out a public governmental or proprietary function, including the State, any State agency, any school district, park district, city, village, incorporated town, county, township, drainage or any other type of district, board, commission, au-

thority, university, public community college or any combination (including any combination under [Section 10 of Article VII of the Illinois Constitution](#) or under the Intergovernmental Cooperation Act of 1973, as now or hereafter amended), [FN3] acting through their corporate authorities, and any other unit of local government within the meaning of [Section 1 of Article VII of the Illinois Constitution](#).

"Public corporation security" means any bond, note, loan agreement, or other evidence of indebtedness which a public corporation is legally authorized to issue or enter into for the purpose of financing or refinancing the costs of an asbestos abatement project.

"Secretary" means the Secretary of the Authority.

"State" means the State of Illinois.

"Treasurer" means the Treasurer of the Authority.

[FN1] [15 U.S.C.A. § 2641 et seq.](#)

[FN2] [26 U.S.C.A. § 501.](#)

[FN3] [5 ILCS 220/1 et seq.](#)

**Effective: January 01, 2004**

### **3510/3. Powers**

§ 3. Powers. In addition to the powers set forth elsewhere in this Act and in The Illinois Finance Authority Act, [FN1] as now or hereafter amended, the Authority may:

- (a) Adopt an official seal.
- (b) Maintain asbestos abatement suboffices at places within the State as it designates.
- (c) Sue and be sued, plead and be impleaded, all in its own name, and agree to binding arbitration of any dispute to which it is a party under this Act.
- (d) Adopt bylaws, rules, and regulations to carry out the provisions and purposes of this Act.
- (e) Employ, either as regular employees or independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts, superintendents, managers, other professional personnel, and other persons as may be necessary or appropriate in the judgment of the Authority to achieve the purposes of this Act, and fix their compensation.
- (f) Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to accomplish the purposes of this Act.
- (g) Acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property, including the altera-

tion or demolition of improvements to real estate, necessary to accomplish the purposes of this Act.

(h) Enter into contracts of any kind in furtherance of or which are necessary or incidental to the purposes of this Act or actions of the Authority taken under this Act.

(i) Regulate the use and operation of asbestos abatement projects developed under the provisions of this Act, except that asbestos abatement projects undertaken by schools shall be governed by the Asbestos Abatement Act, [FN2] the Asbestos Hazard Emergency Response Act [FN3] and by the regulations promulgated by the Department of Public Health pursuant to those Acts.

(j) Purchase from time to time by negotiated sale, upon such terms as the Authority shall determine, public corporation securities issued by one or more public corporations for the purpose of paying costs of asbestos abatement projects or private institution securities issued by one or more private institutions for the purpose of paying costs of asbestos abatement projects.

(k) Make loans from time to time, upon such terms as the Authority shall determine, to public corporations and private institutions for the purpose of paying costs of asbestos abatement projects.

(l) Issue bonds in one or more series pursuant to one or more resolutions adopted by the Board for the purpose of purchasing or acquiring public corporation securities or private institution securities issued for the purpose of paying costs of asbestos abatement projects or for the purpose of making loans to public corporations or private institutions for the purpose of paying costs of asbestos abatement projects, providing for the payment of any interest deemed necessary on such bonds, paying for the costs of issuance of such bonds, providing for the payment of any premium on any insurance or the cost of any guarantees, letters of credit or other credit enhancement facilities, or providing for the funding of any reserves deemed necessary in connection with such bonds, and refunding or advance refunding (one or more times) any such bonds. Such bonds may bear interest at any rate or rates (whether fixed or variable, and whether current or deferred), notwithstanding any other provision of law to the contrary, which rate or rates may be established by an index or formula which may be implemented or established by persons appointed or retained therefor by the Authority, may bear such date or dates, may be payable at such time or times and at such place or places, may mature at any time or times not later than 40 years from the date of issuance, may be sold at competitive or negotiated sale at such time or times and at such price or prices, may be secured by such pledges, covenants, reserves, guarantees, letters of credit or other credit enhancement facilities, may be issued and secured by such form of trust agreement between the Authority and a bank or trust company having the powers of a trust company within or without the State, may be executed in such manner, may be subject to redemption prior to maturity, and may be subject to such other terms and conditions, as are provided by the Authority in the resolution authorizing the issuance of any such bonds.

(m) Provide for the establishment and funding of any reserves or other funds or accounts deemed necessary by the Authority in connection with any bonds issued by the Authority under this Act, any public corporation securities or private institution securities purchased or acquired by the Authority, or any loan made by the Authority to a public corporation or a private institution, and deposit into such reserves, funds or accounts the proceeds of any bonds issued by the Authority or any other funds of the Authority or any funds of a public corporation or a private institution which may be applied for such purpose. Such reserves, funds or accounts may be held by a corporate trustee, which may be any trust company or bank having the powers of a trust company located within or outside the State.

(n) Pledge any public corporation security or private institution security, including any payment thereon, and any other funds of the Authority which may be applied to such purpose, as security for any bonds issued by the Authority or to secure any letter of credit, guarantee or other credit enhancement facility.

(o) Enter into agreements or other transactions with any federal, State or local governmental agency in connection with this Act.

(p) Receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the construction of asbestos abatement projects or for research and development with respect to asbestos abatement projects, such grants to be held, used and applied only for the purposes for which such grants were made.

(q) Charge fees to defray the cost of letters of credit, guarantees or other credit enhancement facilities, trustees, depositaries, paying agents, bond registrars, escrow agents, tender agents and other administrative and program expenses; and otherwise charge such program fees consistent with the purposes of this Act as the Authority shall from time to time determine. Any such fees shall be payable in such amounts and at such times as the Authority shall determine, and the amount of the fees need not be uniform among the various series of bonds issued by the Authority or among the issuers of public corporation securities or private institution securities purchased or acquired or proposed to be purchased or acquired by the Authority.

(r) Prescribe application forms, notification forms, forms of contracts, loan agreements, financing agreements and security agreements, and such other forms as the Authority deems necessary or appropriate in connection with this Act.

(s) Purchase or acquire any bonds of the Authority issued under this Act for cancellation, resale, or reissuance.

(t) Subject to the provisions of any resolution, indenture, or other contract with the owners of bonds, sell, or otherwise transfer or dispose of public corporation securities or private institution securities acquired under this Act.

(u) Do any and all things necessary or convenient to carry out the purposes of, and exercise the powers expressly given and granted in, this Act, including the adoption of rules under The Illinois Administrative Procedure Act, as now or hereafter amended, [FN4] as are necessary to carry out the powers and duties conferred by this Act.

[FN1] [20 ILCS 3501/801-1 et seq.](#)

[FN2] [105 ILCS 105/1 et seq.](#)

[FN3] [15 U.S.C.A. § 2641 et seq.](#)

[FN4] [5 ILCS 100/1-1 et seq.](#)

**Effective: [See Text Amendments]**

#### **3510/4. Public corporation and private institution participation**

§ 4. Public corporation and private institution participation. Any public corporation which is authorized to issue,

sell and deliver its public corporation securities (or, if the public corporation security is in the form of a loan agreement, to execute and deliver the loan agreement) under the laws of this State may issue, sell and deliver (or, in the case of a loan agreement, execute and deliver) such securities to the Authority under this Act; provided that, notwithstanding any other provision of law to the contrary, any such public corporation may issue and sell (or, in the case of a loan agreement, execute and deliver) any such public corporation security by negotiated sale to the Authority, at any interest rate (whether fixed or variable, and whether current or deferred), which rate or rates may be established by an index or formula which may be implemented by persons appointed or retained therefor by the Authority, and at such price or prices to which the public corporation and the Authority may agree. Any public corporation selling its public corporation security to (or, in the case of a loan agreement, entering into a loan agreement with) the Authority under this Act may pay any amount charged by the Authority under this Act. Any private institution which is so authorized may issue, sell and deliver its private institution securities (or, if such private institution security shall be in the form of a loan agreement, to execute and deliver such loan agreement) to the Authority under this Act. The Authority shall have discretion to purchase such public corporation securities and private institution securities (or, in the case of a public corporation security or a private institution security in the form of a loan agreement, execute and deliver and make the loan contemplated by such loan agreement) as the Authority shall deem to be in the best interests of furthering and accomplishing the purposes stated in this Act.

**Effective: [See Text Amendments]**

#### **3510/5. Bonds as limited obligations**

§ 5. Bonds as limited obligations. Bonds issued by the Authority under this Act shall be limited obligations of the Authority payable solely from such revenues, securities, funds, and other assets as the resolution of the Authority authorizing issuance of the bonds shall provide. Bonds issued by the Authority under this Act shall not constitute a general obligation or debt of the Authority, the State or any political subdivision of the State.

**Effective: [See Text Amendments]**

#### **3510/6. Pledges by Authority**

§ 6. Pledges by Authority. Any pledge of revenues, securities, funds, or other assets made by the Authority to secure payment of bonds issued under this Act shall be valid and binding and immediately effective from the time the pledge is made. Revenues, securities, funds, or other assets so pledged shall be held in the custody of either the Treasurer or a trustee or a depository (or any agent thereof) appointed by the Authority. Revenue, securities, funds, or other assets so pledged and thereafter received by the Authority or its designated depository shall immediately be subject to the lien of the pledge without any physical delivery thereof or other further act. The lien of any pledge shall be valid and binding as against, and superior to any claims of, all parties having claims of any kind in tort, contract, or otherwise against the Authority or any other person, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created, nor any notice thereof or memorandum with respect thereto, need be filed or recorded except in the records of the Authority.

**Effective: [See Text Amendments]**

### **3510/7. Enforcement of rights of bondholders and bond trustees**

§ 7. Enforcement of rights of bondholders and bond trustees. Any owner of a bond of the Authority issued under this Act, or any trustee under any trust agreement securing bonds of the Authority issued under this Act, except to the extent the rights given by this Section may be restricted by the provisions of the bonds, the trust agreement or the resolution of the Authority authorizing the issuance of the bonds, may by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of this State or granted under this Act, or the applicable bonds, trust agreement or resolution of the Authority authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required under the laws of the State or granted under this Act, or the applicable bonds, trust agreement or resolution of the Authority authorizing the issuance of such bonds to be performed by the Authority or any officer thereof.

**Effective: [See Text Amendments]**

### **3510/8. Tax exemption**

§ 8. Tax exemption. Bonds issued by the Authority under this Act, their transfer, the interest payable on them, and any income derived from them shall be exempt from taxation under the Illinois Income Tax Act, as now or hereafter amended, [FN1] or from taxation by any political subdivision, municipal corporation or public agency of any kind of or within the State. For purposes of Section 250 of the Illinois Income Tax Act, [FN2] the exemption of the income from bonds issued by the Authority shall terminate after all of the bonds have been paid. The amount of such income that shall be added and then subtracted on the Illinois income tax return of a taxpayer, pursuant to Section 203 of the Illinois Income Tax Act, [FN3] from federal adjusted gross income or federal taxable income in computing Illinois base income shall be the interest net of any bond premium amortization.

[FN1] 35 ILCS 5/101 et seq.

[FN2] 35 ILCS 5/250.

[FN3] 35 ILCS 5/203.

**Effective: [See Text Amendments]**

### **3510/9. Members or employees of Authority; conflicting relations or interests**

§ 9. Members or employees of Authority; conflicting relations or interests.

(a) No member of the Board, officer, agent or employee of the Authority shall, in his or her own name or in the name of a nominee, be an officer, director or hold an ownership interest of more than 7.5% in any person, association, trust, corporation, partnership or other entity which is, in its own name or in the name of a nominee, a party to a contract or agreement under this Act upon which the member, officer, agent or employee may be called upon to act or vote.

(b) With respect to any direct or any indirect interest, other than an interest prohibited in subsection (a) of this Section, in a contract or agreement under this Act upon which the member, officer, agent or employee may be called upon to act or vote, a member of the Board, officer, agent or employee of the Authority shall disclose the

same to the Secretary before the taking of final action by the Authority concerning such contract or agreement and shall so disclose the nature and extent of such interest and his or her acquisition thereof, which disclosures shall be publicly acknowledged by the Authority and entered upon the minutes of the Authority. If a member of the Board, officer, agent or employee of the Authority holds such an interest, then he or she shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other members of the Board and the other officers, agents and employees of the Authority concerning that contract or agreement. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection (b) shall not be void or invalid by reason of the interest described in this subsection (b), nor shall any person so disclosing the interest and refraining from further official involvement as provided in this subsection (b) be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest.

(c) Any contract or agreement made in violation of subsection (a) or (b) of this Section shall be null and void.

**Effective: January 15, 2005**

#### **3510/10. Authority records and reports**

§ 10. Authority records and reports. The accounts and books of the Authority in connection with this Act shall be set up on and maintained in a manner approved by the Auditor General, and the Authority shall file with the Auditor General a certified annual report of its acts and doings under this Act within 120 days after the close of its fiscal year. The Authority shall also file with the Governor, the Secretary of the Senate, the Clerk of the House of Representatives, and the Commission on Government Forecasting and Accountability, by March 1 of each year, commencing March 1, 1990, a written report covering its activities under this Act for the previous fiscal year. After such filing, such report shall be a public record and open for inspection at the offices of the Authority during normal business hours.

Current through P.A. 96-327, with the exception of 321, of the 2009 Reg. Sess.  
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415 ILCS 5/9.13

**Effective: July 01, 2003**West's Smith-Hurd Illinois Compiled Statutes Annotated [Currentness](#)

Chapter 415. Environmental Safety

[Act 5. Environmental Protection Act \(Refs & Annos\)](#)[Title II. Air Pollution \(Refs & Annos\)](#)**→ 5/9.13. Asbestos fees**§ 9.13. **Asbestos** fees.

(a) For any site for which the owner or operator must file an original 10-day notice of intent to renovate or demolish pursuant to [40 CFR 61.145\(b\)](#) (part of the federal **asbestos** National Emission Standard for Hazardous Air Pollutants or NESHAP), the owner or operator shall pay to the Agency with the filing of each 10-day Notice a fee of \$150.

(b) If demolition or renovation of a site has commenced without proper filing of the 10-day Notice, the fee is double the amount otherwise due. This doubling of the fee is in addition to any other penalties under this Act, the federal NESHAP, or otherwise, and does not preclude the Agency, the Attorney General, or other authorized persons from pursuing an enforcement action against the owner or operator for failure to file a 10-day Notice prior to commencing demolition or renovation activities.

(c) In the event that an owner or operator makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the 10-day Notice shall be deemed improperly filed. The Agency shall so notify the owner or operator within 60 days of receiving the notice of insufficient funds. Failure of the Agency to so notify the owner or operator does not excuse or alter the duty of the owner or operator to comply with the requirements of this Section.

(d) Where **asbestos** remediation or demolition activities have not been conducted in accordance with the **asbestos** NESHAP, in addition to the fees imposed by this Section, the Agency may also collect its actual costs incurred for **asbestos**-related activities at the site, including without limitation costs of sampling, sample analysis, remediation plan review, and activity oversight for demolition or renovation.

(e) Fees and cost recovery amounts collected under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

CREDIT(S)

P.A. 76-2429, § 9.13, added by [P.A. 93-32, Art. 75, § 75-52, eff. July 1, 2003](#).

415 I.L.C.S. 5/9.13, IL ST CH 415 § 5/9.13

Current through P.A. 96-327, with the exception of 321, of the 2009 Reg.

415 ILCS 5/9.13

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