



# Finding Funds for Clean Up Insurance Coverage and State Funds

With more than 25 years of experience, Stephen Henshaw, President of EnviroForensics®, a national environmental engineering firm specializing in remediation for drycleaners, says that drycleaners in states with or without cleanup funds have viable solutions for finding dollars for cleanup from historical insurance policies. EnviroForensics® operates a customer service department for drycleaners at 1-866-888-7911 with offices nationwide.

## What can drycleaners in states without adequate cleanup funds do to get help with funding for cleanups?

First thing that a drycleaner should do is look for all of his/her old insurance policies. Typically, the older the policy, the less restrictions they have regarding covering environmental contamination claims.

Generally, policies issued before 1985 are needed. Drycleaners should look through all old bank records and note all insurance brokers they have worked with. Secondly, they should jot down a history of when they started at the location, who they purchased insurance from, what types of stores were at that location (or adjacent) and what other insurance was part of their property. Identify whether or not there was a previous drycleaner who may have caused or contributed contamination. Finally, don't do anything without expert advice. Often, if a drycleaner launches into a cleanup without notifying

“We have even conducted individual site investigations costing over \$2 million at no cost to individual drycleaners by using liability insurance policies from the 1980s to pay for contamination problems. After successfully working on over 100 drycleaning sites nationwide, we have helped settle over \$5 million in insurance coverage claims, including individual projects in excess of \$44 million. There's no reason why contamination has to destroy the value of a drycleaning business when there are viable solutions available.”

Stephen Henshaw,  
CEO, EnviroForensics®

insurance carrier(s), they will not be reimbursed for money spent on site investigation and cleanup.

## Why do claims trigger insurance coverage?

Making a valid claim to your carrier can mean the difference between paying hundreds of thousands of dollars for a site cleanup and paying very little. In most instances, a valid claim made to an insurance company will be defended. Among other things, this defense can include legal fees and site investigation activities.

## Should a drycleaner not pay out-of-pocket expenses for cleanup first and later tender a claim to recover that loss of expenses?

Depending on the state, it is not uncommon for an insurance carrier to decline paying costs incurred before a claim was tendered. We have had several clients who spent money on investigations and cleanups, but were only reimbursed a fraction of their costs because the insurance carriers felt they could have managed the work differently and cheaper.

## If a drycleaner is waitlisted for a clean-up fund, can he or she proceed with the sale of the business with some assurance that the value of his or her business is adequately protected?

In many states that have cleanup funds, a prospective purchaser agreement (PPA) will allow a property transaction to proceed prior to a regulatory release and sign off (of no further action). However, a PPA generally does not remove any contingent liabilities associated with the drycleaning site; but instead delays the inevitable site investigation and potential cleanup. It also allows the purchaser more time to discover any additional problems that often are the seller's responsibility.

Furthermore, the involvement of a drycleaner in a fund does not remove any contingent environmental liabilities from the site itself, nor does it fully protect the drycleaner from any potential actions that might arise from contamination. These issues might be diminished values to property or to other properties that might be affected by contamination coming from the site. Cleanup funds do not fully protect a drycleaner from a citizen or third-party suit associated with contamination coming from his/her site.

## How can drycleaners in states with cleanup funds evaluate where the best funding is for them?

Such “funds” may best be used for either actual cleanup efforts, known as “remediation,” for which insurance dollars are generally more difficult to recover, or for sites at which such insurance dollars or other responsible parties cannot be identified. Cleanup fund dollars may also provide seed money to perform any insurance archaeology or pay for other efforts that can identify where dollars for cleanup may be found. The bottom line is that a fund with enough money to pay for cleanups is a good thing. The problem is that most states do not have enough money in the fund to cover cleanup at this time.

## Why should drycleaners feel confident about finding help with clean up when state clean up funds are not available or adequate?

Our experience has been that drycleaners, particularly drycleaners that have been at their site since at least the early 1980s, have an excellent opportunity to get the site investigation and remediation paid for by either their old insurance companies or other responsible parties.

*With more than 25 years of experience, Mr. Henshaw holds professional geology registrations in numerous states. As President and CEO of EnviroForensics®, Mr. Henshaw serves as a client and technical manager on projects associated with site characterization, remedial design, remedial implementation and operation, and litigation support and insurance coverage matters. Mr. Henshaw's expertise includes a strong knowledge of industrial operations, past and current industry practices and procedures, and a hands-on, practical understanding of the fate and transport of contaminants in soil and groundwater. He has also served as a testifying expert on behalf of individual landowners and facility operators at several sites impacted by industrial activities and continues to provide technical and litigation support services.*

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