

AN ACT concerning civil law.

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

Section 5. The Code of Civil Procedure is amended by changing Section 3-107 as follows:

(735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

Sec. 3-107. Defendants.

(a) Except as provided in subsection (b), (b-1), or (c), in any action to review any final decision of an administrative agency, the administrative agency and all persons, other than the plaintiff, who were parties of record to the proceedings before the administrative agency shall be made defendants. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

No action for administrative review shall be dismissed for lack of jurisdiction: (1) based upon misnomer of an agency, board, commission, or party that is properly served with summons that was issued in the action within the applicable time limits; or (2) for a failure to name an employee, agent, or member, who acted in his or her official capacity, of an administrative agency, board, committee, or government entity where a timely action for administrative review has been filed that identifies the final administrative decision under review and that makes a good faith effort to properly name the administrative agency, board, committee, or government entity. Naming the director or agency head, in his or her official capacity, shall be deemed to include as defendant the administrative agency, board, committee, or government entity that the named defendants direct or head. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to name an administrative agency, board, committee, or government entity, where the director or agency head, in his or her official capacity, has been named as a defendant as provided in this Section.

If, during the course of a review action, the court determines that an agency or a party of record to the administrative proceedings was not made a defendant as required by the preceding paragraph, then the court shall grant the plaintiff 35 days from the date of the determination in which to name and serve the unnamed agency or party as a

defendant. The court shall permit the newly served defendant to participate in the proceedings to the extent the interests of justice may require.

(b) With respect to actions to review decisions of a zoning board of appeals under Division 13 of Article 11 of the Illinois Municipal Code, "parties of record" means only the zoning board of appeals and applicants before the zoning board of appeals. The plaintiff shall send a notice of filing of the action by certified mail to each other person who appeared before and submitted oral testimony or written statements to the zoning board of appeals with respect to the decision appealed from. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action is filed, and the names of the plaintiff in the action and the applicant to the zoning board of appeals. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or written statements to the zoning board of appeals with respect to the decision appealed from shall have a right to intervene as a defendant in the action upon application made to the court within 30 days of the mailing of the notice.

(b-1) With respect to an action to review a decision of an administrative agency with final decision-making authority over designated historic properties or areas under Section 11-48.2-4 of the Illinois Municipal Code or a decision of an

administrative agency with final decision-making authority over exterior design review of buildings or structures under item (12) of Section 11-13-1 of the Illinois Municipal Code, "parties of record" means only the administrative agency and applicants before the administrative agency. The plaintiff shall send a notice of filing of the action by certified mail to each other person who appeared before and submitted oral testimony or a written statement to the administrative agency with respect to the appealed decision. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action was filed, and the names of the plaintiff in the action and the applicant to the administrative agency. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or a written statement to the administrative agency with respect to the appealed decision shall have a right to intervene as a defendant in the action upon application made to the court within 30 days of the mailing of the notice.

(c) With respect to actions to review decisions of a hearing officer or a county zoning board of appeals under Division 5-12 of Article 5 of the Counties Code, "parties of record" means only the hearing officer or the zoning board of appeals and applicants before the hearing officer or the zoning board of appeals. The plaintiff shall send a notice of filing of the action by certified mail to each other person who

appeared before and submitted oral testimony or written statements to the hearing officer or the zoning board of appeals with respect to the decision appealed from. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action is filed, and the name of the plaintiff in the action and the applicant to the hearing officer or the zoning board of appeals. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or written statements to the hearing officer or the zoning board of appeals with respect to the decision appealed from shall have a right to intervene as a defendant in the action upon application made to the court within 30 days of the mailing of the notice. This subsection (c) applies to zoning proceedings commenced on or after July 1, 2007 (the effective date of Public Act 95-321).

(d) The changes to this Section made by Public Act 95-831 apply to all actions filed on or after August 21, 2007 (the effective date of Public Act 95-831). The changes made by Public Act 100-212 apply to all actions filed on or after August 18, 2017 (the effective date of Public Act 100-212).

(Source: P.A. 100-83, eff. 1-1-18; 100-212, eff. 8-18-17; 100-863, eff. 8-14-18.)