



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0584

Introduced 1/24/2017, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

5 ILCS 100/10-25	from Ch. 127, par. 1010-25
5 ILCS 100/10-50	from Ch. 127, par. 1010-50
735 ILCS 5/3-102	from Ch. 110, par. 3-102
735 ILCS 5/3-107	from Ch. 110, par. 3-107
735 ILCS 5/3-111	from Ch. 110, par. 3-111

Amends the Illinois Administrative Procedure Act. Provides that in a contested case, the notice required to be provided to all parties may be served by electronic mail if agreed to by the parties. Requires every final order to contain a list of all parties of record to the case including the name and address of the agency or officer entering the order and the addresses of each party as known to the agency where the parties may be served with pleadings, notices, or service of process for any review or further proceedings. Requires every final order to state whether the rules of the agency require any motion or request for reconsideration to make the decision reviewable under the Administrative Review Law and to cite the rule for the requirement. Amends the Code of Civil Procedure. Provides that the scope of an Article concerning administrative review shall be liberally construed in the interests of justice to grant an orderly method of judicial review of administrative agency decisions. Provides that no action for administrative review shall be dismissed for lack of jurisdiction under certain specified circumstances. Provides that the circuit court has the power to correct misnomers, which shall include any erroneous identification of the administrative agency. Effective immediately.

LRB100 03920 RJF 13925 b

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 10-25 and 10-50 as follows:

6 (5 ILCS 100/10-25) (from Ch. 127, par. 1010-25)

7 Sec. 10-25. Contested cases; notice; hearing.

8 (a) In a contested case, all parties shall be afforded an
9 opportunity for a hearing after reasonable notice. The notice
10 shall be served personally or by certified or registered mail
11 or by electronic mail if agreed to by the parties or as
12 otherwise provided by law upon the parties or their agents
13 appointed to receive service of process and shall include the
14 following:

15 (1) A statement of the time, place, and nature of the
16 hearing.

17 (2) A statement of the legal authority and jurisdiction
18 under which the hearing is to be held.

19 (3) A reference to the particular Sections of the
20 substantive and procedural statutes and rules involved.

21 (4) Except where a more detailed statement is otherwise
22 provided for by law, a short and plain statement of the
23 matters asserted, the consequences of a failure to respond,

1 and the official file or other reference number.

2 (5) The names and mailing addresses of the
3 administrative law judge, all parties, and all other
4 persons to whom the agency gives notice of the hearing
5 unless otherwise confidential by law.

6 (b) An opportunity shall be afforded all parties to be
7 represented by legal counsel and to respond and present
8 evidence and argument.

9 (c) Unless precluded by law, disposition may be made of any
10 contested case by stipulation, agreed settlement, consent
11 order, or default.

12 (Source: P.A. 87-823.)

13 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)

14 Sec. 10-50. Decisions and orders.

15 (a) A final decision or order adverse to a party (other
16 than the agency) in a contested case shall be in writing or
17 stated in the record. A final decision shall include findings
18 of fact and conclusions of law, separately stated. Findings of
19 fact, if set forth in statutory language, shall be accompanied
20 by a concise and explicit statement of the underlying facts
21 supporting the findings. If, in accordance with agency rules, a
22 party submitted proposed findings of fact, the decision shall
23 include a ruling upon each proposed finding. Parties or their
24 agents appointed to receive service of process shall be
25 notified either personally or by registered or certified mail

1 of any decision or order. Upon request a copy of the decision
2 or order shall be delivered or mailed forthwith to each party
3 and to his attorney of record.

4 (b) All agency orders shall specify whether they are final
5 and subject to the Administrative Review Law. Every final order
6 shall contain a list of all parties of record to the case
7 including the name and address of the agency or officer
8 entering the order and the addresses of each party as known to
9 the agency where the parties may be served with pleadings,
10 notices, or service of process for any review or further
11 proceedings. Every final order shall also state whether the
12 rules of the agency require any motion or request for
13 reconsideration to make the decision reviewable under the
14 Administrative Review Law and shall cite the rule for the
15 requirement. The changes made by this amendatory Act of the
16 100th General Assembly apply to all actions filed under the
17 Administrative Review Law on or after the effective date of
18 this amendatory Act of the 100th General Assembly.

19 (c) A decision by any agency in a contested case under this
20 Act shall be void unless the proceedings are conducted in
21 compliance with the provisions of this Act relating to
22 contested cases, except to the extent those provisions are
23 waived under Section 10-70 and except to the extent the agency
24 has adopted its own rules for contested cases as authorized in
25 Section 1-5.

26 (Source: P.A. 92-16, eff. 6-28-01.)

1 Section 10. The Code of Civil Procedure is amended by
2 changing Sections 3-102, 3-107, and 3-111 as follows:

3 (735 ILCS 5/3-102) (from Ch. 110, par. 3-102)

4 Sec. 3-102. Scope of Article. This Article III shall apply
5 to and govern every action to review judicially a final
6 decision of any administrative agency where the Act creating or
7 conferring power on such agency, by express reference, adopts
8 the provisions of this Article III or its predecessor, the
9 Administrative Review Act. This Article shall be known as the
10 "Administrative Review Law". In all such cases, any other
11 statutory, equitable or common law mode of review of decisions
12 of administrative agencies heretofore available shall not
13 hereafter be employed.

14 Unless review is sought of an administrative decision
15 within the time and in the manner herein provided, the parties
16 to the proceeding before the administrative agency shall be
17 barred from obtaining judicial review of such administrative
18 decision. In an action to review any final decision of any
19 administrative agency brought under this Article III, if a
20 judgment is reversed or entered against the plaintiff, or the
21 action is voluntarily dismissed by the plaintiff, or the action
22 is dismissed for want of prosecution, or the action is
23 dismissed by a United States District Court for lack of
24 jurisdiction, neither the plaintiff nor his or her heirs,

1 executors, or administrators may commence a new action within
2 one year or within the remaining period of limitation,
3 whichever is greater. All proceedings in the court for revision
4 of such final decision shall terminate upon the date of the
5 entry of any Order under either Section 2-1009 or Section
6 13-217. Such Order shall cause the final administrative
7 decision of any administrative agency to become immediately
8 enforceable. If under the terms of the Act governing the
9 procedure before an administrative agency an administrative
10 decision has become final because of the failure to file any
11 document in the nature of objections, protests, petition for
12 hearing or application for administrative review within the
13 time allowed by such Act, such decision shall not be subject to
14 judicial review hereunder excepting only for the purpose of
15 questioning the jurisdiction of the administrative agency over
16 the person or subject matter.

17 This Article shall be liberally construed in the interests
18 of justice to grant an orderly method of judicial review of
19 administrative agency decisions.

20 The changes made by this amendatory Act of the 100th
21 General Assembly apply to all actions filed on or after the
22 effective date of this amendatory Act of the 100th General
23 Assembly.

24 (Source: P.A. 99-642, eff. 7-28-16.)

25 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

1 Sec. 3-107. Defendants.

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

17 No action for administrative review shall be dismissed for
18 lack of jurisdiction: (1) based upon the misnomer of an agency,
19 board, commission, or party who is properly served with summons
20 that was issued in the action within the applicable time
21 limits; or (2) for a ~~the~~ failure to name an employee, agent, or
22 member, who acted in his or her official capacity, of an
23 administrative agency, board, committee, or government entity,
24 where a timely action for administrative review has been filed
25 that identifies the final administrative decision under review
26 and that makes a good faith effort to properly name the

1 administrative agency ~~the administrative agency, board,~~
2 ~~committee, or government entity, has been named as a defendant~~
3 ~~as provided in this Section.~~ Naming the director or agency
4 head, in his or her official capacity, shall be deemed to
5 include as defendant the administrative agency, board,
6 committee, or government entity that the named defendants
7 direct or head. No action for administrative review shall be
8 dismissed for lack of jurisdiction based upon the failure to
9 name an administrative agency, board, committee, or government
10 entity, where the director or agency head, in his or her
11 official capacity, has been named as a defendant as provided in
12 this Section.

13 If, during the course of a review action, the court
14 determines that an agency or a party of record to the
15 administrative proceedings was not made a defendant as required
16 by the preceding paragraph, then the court shall grant the
17 plaintiff 35 days from the date of the determination in which
18 to name and serve the unnamed agency or party as a defendant.
19 The court shall permit the newly served defendant to
20 participate in the proceedings to the extent the interests of
21 justice may require.

22 (b) With respect to actions to review decisions of a zoning
23 board of appeals in a municipality with a population of 500,000
24 or more inhabitants under Division 13 of Article 11 of the
25 Illinois Municipal Code, "parties of record" means only the
26 zoning board of appeals and applicants before the zoning board

1 of appeals. The plaintiff shall send a notice of filing of the
2 action by certified mail to each other person who appeared
3 before and submitted oral testimony or written statements to
4 the zoning board of appeals with respect to the decision
5 appealed from. The notice shall be mailed within 2 days of the
6 filing of the action. The notice shall state the caption of the
7 action, the court in which the action is filed, and the names
8 of the plaintiff in the action and the applicant to the zoning
9 board of appeals. The notice shall inform the person of his or
10 her right to intervene. Each person who appeared before and
11 submitted oral testimony or written statements to the zoning
12 board of appeals with respect to the decision appealed from
13 shall have a right to intervene as a defendant in the action
14 upon application made to the court within 30 days of the
15 mailing of the notice.

16 (c) With respect to actions to review decisions of a
17 hearing officer or a county zoning board of appeals under
18 Division 5-12 of Article 5 of the Counties Code, "parties of
19 record" means only the hearing officer or the zoning board of
20 appeals and applicants before the hearing officer or the zoning
21 board of appeals. The plaintiff shall send a notice of filing
22 of the action by certified mail to each other person who
23 appeared before and submitted oral testimony or written
24 statements to the hearing officer or the zoning board of
25 appeals with respect to the decision appealed from. The notice
26 shall be mailed within 2 days of the filing of the action. The

1 notice shall state the caption of the action, the court in
2 which the action is filed, and the name of the plaintiff in the
3 action and the applicant to the hearing officer or the zoning
4 board of appeals. The notice shall inform the person of his or
5 her right to intervene. Each person who appeared before and
6 submitted oral testimony or written statements to the hearing
7 officer or the zoning board of appeals with respect to the
8 decision appealed from shall have a right to intervene as a
9 defendant in the action upon application made to the court
10 within 30 days of the mailing of the notice. This subsection
11 (c) applies to zoning proceedings commenced on or after July 1,
12 2007 (the effective date of Public Act 95-321) ~~this amendatory~~
13 ~~Act of the 95th General Assembly.~~

14 (d) The changes to this Section made by Public Act
15 95-831~~this amendatory Act of the 95th General Assembly~~ apply to
16 all actions filed on or after August 21, 2007 (the effective
17 date of Public Act 95-831) ~~this amendatory Act of the 95th~~
18 ~~General Assembly.~~ The changes made by this amendatory Act of
19 the 100th General Assembly apply to all actions filed on or
20 after the effective date of this amendatory Act of the 100th
21 General Assembly.

22 (Source: P.A. 95-321, eff. 8-21-07; 95-831, eff. 8-14-08.)

23 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

24 Sec. 3-111. Powers of circuit court.

25 (a) The Circuit Court has power:

1 (1) with or without requiring bond (except if otherwise
2 provided in the particular statute under authority of which
3 the administrative decision was entered), and before or
4 after answer filed, upon notice to the agency and good
5 cause shown, to stay the decision of the administrative
6 agency in whole or in part pending the final disposition of
7 the case. For the purpose of this subsection, "good cause"
8 requires the applicant to show (i) that an immediate stay
9 is required in order to preserve the status quo without
10 endangering the public, (ii) that it is not contrary to
11 public policy, and (iii) that there exists a reasonable
12 likelihood of success on the merits;

13 (2) to make any order that it deems proper for the
14 amendment, completion or filing of the record of
15 proceedings of the administrative agency;

16 (3) to allow substitution of parties by reason of
17 marriage, death, bankruptcy, assignment or other cause;

18 (4) to dismiss parties, to correct misnomers including
19 any erroneous identification of the administrative agency,
20 to realign parties, or to join agencies or parties;

21 (5) to affirm or reverse the decision in whole or in
22 part;

23 (6) where a hearing has been held by the agency, to
24 reverse and remand the decision in whole or in part, and,
25 in that case, to state the questions requiring further
26 hearing or proceedings and to give such other instructions

1 as may be proper;

2 (7) where a hearing has been held by the agency, to
3 remand for the purpose of taking additional evidence when
4 from the state of the record of the administrative agency
5 or otherwise it shall appear that such action is just.
6 However, no remandment shall be made on the ground of newly
7 discovered evidence unless it appears to the satisfaction
8 of the court that such evidence has in fact been discovered
9 subsequent to the termination of the proceedings before the
10 administrative agency and that it could not by the exercise
11 of reasonable diligence have been obtained at such
12 proceedings; and that such evidence is material to the
13 issues and is not cumulative;

14 (8) in case of affirmance or partial affirmance of an
15 administrative decision which requires the payment of
16 money, to enter judgment for the amount justified by the
17 record and for costs, which judgment may be enforced as
18 other judgments for the recovery of money;

19 (9) when the particular statute under authority of
20 which the administrative decision was entered requires the
21 plaintiff to file a satisfactory bond and provides for the
22 dismissal of the action for the plaintiff's failure to
23 comply with this requirement unless the court is authorized
24 by the particular statute to enter, and does enter, an
25 order imposing a lien upon the plaintiff's property, to
26 take such proofs and to enter such orders as may be

1 appropriate to carry out the provisions of the particular
2 statute. However, the court shall not approve the bond, nor
3 enter an order for the lien, in any amount which is less
4 than that prescribed by the particular statute under
5 authority of which the administrative decision was entered
6 if the statute provides what the minimum amount of the bond
7 or lien shall be or provides how said minimum amount shall
8 be determined. No such bond shall be approved by the court
9 without notice to, and an opportunity to be heard thereon
10 by, the administrative agency affected. The lien, created
11 by the entry of a court order in lieu of a bond, shall not
12 apply to property exempted from the lien by the particular
13 statute under authority of which the administrative
14 decision was entered. The lien shall not be effective
15 against real property whose title is registered under the
16 provisions of the Registered Titles (Torrens) Act until the
17 provisions of Section 85 of that Act are complied with.

18 (b) Technical errors in the proceedings before the
19 administrative agency or its failure to observe the technical
20 rules of evidence shall not constitute grounds for the reversal
21 of the administrative decision unless it appears to the court
22 that such error or failure materially affected the rights of
23 any party and resulted in substantial injustice to him or her.

24 (c) On motion of either party, the circuit court shall make
25 findings of fact or state the propositions of law upon which
26 its judgment is based.

1 (d) The changes to this Section made by Public Act 95-831
2 ~~this amendatory Act of the 95th General Assembly~~ apply to all
3 actions filed on or after August 21, 2007 (the effective date
4 of Public Act 95-831) ~~this amendatory Act of the 95th General~~
5 ~~Assembly.~~ The changes made by this amendatory Act of the 100th
6 General Assembly apply to all actions filed on or after the
7 effective date of this amendatory Act of the 100th General
8 Assembly.

9 (Source: P.A. 95-831, eff. 8-14-08.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.