



Sen. Laura M. Murphy

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10000SB0731sam002

LRB100 08389 HEP 24340 a

1 AMENDMENT TO SENATE BILL 731

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 731 by replacing  
3 everything after the enacting clause with the following:

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

6 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

7 Sec. 3-107. Defendants.

8 (a) Except as provided in subsection (b) or (c), in any  
9 action to review any final decision of an administrative  
10 agency, the administrative agency and all persons, other than  
11 the plaintiff, who were parties of record to the proceedings  
12 before the administrative agency shall be made defendants. The  
13 method of service of the decision shall be as provided in the  
14 Act governing the procedure before the administrative agency,  
15 but if no method is provided, a decision shall be deemed to  
16 have been served either when a copy of the decision is

1 personally delivered or when a copy of the decision is  
2 deposited in the United States mail, in a sealed envelope or  
3 package, with postage prepaid, addressed to the party affected  
4 by the decision at his or her last known residence or place of  
5 business. The form of the summons and the issuance of alias  
6 summons shall be according to rules of the Supreme Court.

7 No action for administrative review shall be dismissed for  
8 lack of jurisdiction based upon the failure to name an  
9 employee, agent, or member, who acted in his or her official  
10 capacity, of an administrative agency, board, committee, or  
11 government entity, where the administrative agency, board,  
12 committee, or government entity, has been named as a defendant  
13 as provided in this Section. Naming the director or agency  
14 head, in his or her official capacity, shall be deemed to  
15 include as defendant the administrative agency, board,  
16 committee, or government entity that the named defendants  
17 direct or head. No action for administrative review shall be  
18 dismissed for lack of jurisdiction based upon the failure to  
19 name an administrative agency, board, committee, or government  
20 entity, where the director or agency head, in his or her  
21 official capacity, has been named as a defendant as provided in  
22 this Section.

23 If, during the course of a review action, the court  
24 determines that an agency or a party of record to the  
25 administrative proceedings was not made a defendant as required  
26 by the preceding paragraph, then the court shall grant the

1 plaintiff 35 days from the date of the determination in which  
2 to name and serve the unnamed agency or party as a defendant.  
3 The court shall permit the newly served defendant to  
4 participate in the proceedings to the extent the interests of  
5 justice may require.

6 (b) With respect to actions to review decisions of a zoning  
7 board of appeals ~~in a municipality with a population of 500,000~~  
8 ~~or more inhabitants~~ under Division 13 of Article 11 of the  
9 Illinois Municipal Code, "parties of record" means only the  
10 zoning board of appeals and applicants before the zoning board  
11 of appeals. The plaintiff shall send a notice of filing of the  
12 action by certified mail to each other person who appeared  
13 before and submitted oral testimony or written statements to  
14 the zoning board of appeals with respect to the decision  
15 appealed from. The notice shall be mailed within 2 days of the  
16 filing of the action. The notice shall state the caption of the  
17 action, the court in which the action is filed, and the names  
18 of the plaintiff in the action and the applicant to the zoning  
19 board of appeals. The notice shall inform the person of his or  
20 her right to intervene. Each person who appeared before and  
21 submitted oral testimony or written statements to the zoning  
22 board of appeals with respect to the decision appealed from  
23 shall have a right to intervene as a defendant in the action  
24 upon application made to the court within 30 days of the  
25 mailing of the notice.

26 (c) With respect to actions to review decisions of a

1 hearing officer or a county zoning board of appeals under  
2 Division 5-12 of Article 5 of the Counties Code, "parties of  
3 record" means only the hearing officer or the zoning board of  
4 appeals and applicants before the hearing officer or the zoning  
5 board of appeals. The plaintiff shall send a notice of filing  
6 of the action by certified mail to each other person who  
7 appeared before and submitted oral testimony or written  
8 statements to the hearing officer or the zoning board of  
9 appeals with respect to the decision appealed from. The notice  
10 shall be mailed within 2 days of the filing of the action. The  
11 notice shall state the caption of the action, the court in  
12 which the action is filed, and the name of the plaintiff in the  
13 action and the applicant to the hearing officer or the zoning  
14 board of appeals. The notice shall inform the person of his or  
15 her right to intervene. Each person who appeared before and  
16 submitted oral testimony or written statements to the hearing  
17 officer or the zoning board of appeals with respect to the  
18 decision appealed from shall have a right to intervene as a  
19 defendant in the action upon application made to the court  
20 within 30 days of the mailing of the notice. This subsection  
21 (c) applies to zoning proceedings commenced on or after the  
22 effective date of this amendatory Act of the 95th General  
23 Assembly.

24 (d) The changes to this Section made by this amendatory Act  
25 of the 95th General Assembly apply to all actions filed on or  
26 after the effective date of this amendatory Act of the 95th

1 General Assembly.

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