

AN ACT concerning civil law.

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

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

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

Sec. 10-50. Decisions and orders.

(a) A final decision or order adverse to a party (other than the agency) in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties or their agents appointed to receive service of process shall be notified either personally or by registered or certified mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

(b) All agency orders shall specify whether they are final and subject to the Administrative Review Law. Every final order

shall 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. Every final order shall also state whether the rules of the agency require any motion or request for reconsideration and cite the rule for the requirement. The changes made by this amendatory Act of the 100th General Assembly apply to all actions filed under the Administrative Review Law on or after the effective date of this amendatory Act of the 100th General Assembly.

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

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

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

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

(a) Except as provided in subsection (b) 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 ~~the~~ 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, ~~has been named as a defendant as provided in this Section.~~ 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 in a municipality with a population of 500,000 or more inhabitants 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.

(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) ~~this amendatory Act of the 95th General Assembly.~~

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

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

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

Sec. 3-111. Powers of circuit court.

(a) The Circuit Court has power:

(1) with or without requiring bond (except if otherwise provided in the particular statute under authority of which

the administrative decision was entered), and before or after answer filed, upon notice to the agency and good cause shown, to stay the decision of the administrative agency in whole or in part pending the final disposition of the case. For the purpose of this subsection, "good cause" requires the applicant to show (i) that an immediate stay is required in order to preserve the status quo without endangering the public, (ii) that it is not contrary to public policy, and (iii) that there exists a reasonable likelihood of success on the merits;

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

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

(4) to dismiss parties, to correct misnomers, including any erroneous identification of the administrative agency that was made in good faith, to realign parties, or to join agencies or parties;

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

(6) where a hearing has been held by the agency, to reverse and remand the decision in whole or in part, and, in that case, to state the questions requiring further hearing or proceedings and to give such other instructions as may be proper;

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

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

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

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

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

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

(d) The changes to this Section made by Public Act 95-831

Public Act 100-0212

SB0584 Enrolled

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~~this amendatory Act of the 95th General Assembly~~ apply to all actions filed on or after August 21, 2007 (the effective date of Public Act 95-831) ~~this amendatory Act of the 95th General Assembly~~. The changes made by this amendatory Act of the 100th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 100th General Assembly.

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

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