

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

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

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

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

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

23 (b-1) With respect to an action to review a decision of an  
24 administrative agency with final decision-making authority  
25 over designated historic properties or areas under Section  
26 11-48.2-4 of the Illinois Municipal Code or a decision of an

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

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

1 appeared before and submitted oral testimony or written  
2 statements to the hearing officer or the zoning board of  
3 appeals with respect to the decision appealed from. The notice  
4 shall be mailed within 2 days of the filing of the action. The  
5 notice shall state the caption of the action, the court in  
6 which the action is filed, and the name of the plaintiff in the  
7 action and the applicant to the hearing officer or the zoning  
8 board of appeals. The notice shall inform the person of his or  
9 her right to intervene. Each person who appeared before and  
10 submitted oral testimony or written statements to the hearing  
11 officer or the zoning board of appeals with respect to the  
12 decision appealed from shall have a right to intervene as a  
13 defendant in the action upon application made to the court  
14 within 30 days of the mailing of the notice. This subsection  
15 (c) applies to zoning proceedings commenced on or after July  
16 1, 2007 (the effective date of Public Act 95-321).

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

22 (Source: P.A. 100-83, eff. 1-1-18; 100-212, eff. 8-18-17;  
23 100-863, eff. 8-14-18.)