



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB3439**

Introduced 2/27/2007, by Rep. Robert S. Molaro

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-2.1-5

Amends the Illinois Municipal Code. Provides that a municipality with a population of more than 2,000,000 must provide notice of adjudicatory hearings by certified mail. Preempts the concurrent exercise of home rule powers.

LRB095 10130 HLH 30344 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Section 1-2.1-5 as follows:

6 (65 ILCS 5/1-2.1-5)

7 Sec. 1-2.1-5. Administrative hearing proceedings.

8 (a) Any ordinance establishing a system of administrative  
9 adjudication, pursuant to this Division, shall afford parties  
10 due process of law, including notice and opportunity for  
11 hearing. Parties shall be served with process in a manner  
12 reasonably calculated to give them actual notice, including, as  
13 appropriate, personal service of process upon a party or its  
14 employees or agents; service by mail at a party's address; or  
15 notice that is posted upon the property where the violation is  
16 found when the party is the owner or manager of the property.  
17 In municipalities with a population under 3,000,000, if the  
18 notice requires the respondent to answer within a certain  
19 amount of time, the municipality must reply to the answer  
20 within the same amount of time afforded to the respondent.

21 (b) Parties shall be given notice of an adjudicatory  
22 hearing which includes the type and nature of the code  
23 violation to be adjudicated, the date and location of the

1 adjudicatory hearing, the legal authority and jurisdiction  
2 under which the hearing is to be held, and the penalties for  
3 failure to appear at the hearing. In a municipality with a  
4 population of more than 2,000,000, notice of the hearing must  
5 be sent by certified mail. A municipality with a population of  
6 more than 2,000,000 may not provide notice of an adjudicatory  
7 hearing in a manner that is inconsistent with this Section.  
8 This Section is a limitation under subsection (i) of Section 6  
9 of Article VII of the Illinois Constitution on the concurrent  
10 exercise by home rule units of powers and functions exercised  
11 by the State.

12 (c) Parties shall be provided with an opportunity for a  
13 hearing during which they may be represented by counsel,  
14 present witnesses, and cross-examine opposing witnesses.  
15 Parties may request the hearing officer to issue subpoenas to  
16 direct the attendance and testimony of relevant witnesses and  
17 the production of relevant documents. Hearings shall be  
18 scheduled with reasonable promptness, provided that for  
19 hearings scheduled in all non-emergency situations, if  
20 requested by the defendant, the defendant shall have at least  
21 15 days after service of process to prepare for a hearing. For  
22 purposes of this subsection (c), "non-emergency situation"  
23 means any situation that does not reasonably constitute a  
24 threat to the public interest, safety, or welfare. If service  
25 is provided by mail, the 15-day period shall begin to run on  
26 the day that the notice is deposited in the mail.

1 (Source: P.A. 94-616, eff. 1-1-06.)