



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0029

Introduced 1/31/2007, by Sen. Todd Sieben

SYNOPSIS AS INTRODUCED:

735 ILCS 5/3-107

from Ch. 110, par. 3-107

Amends the Code of Civil Procedure. Provides that the Administrative Review Law is changed to provide that in an administrative review of a decision of a hearing officer or a county zoning board of appeals the only necessary parties are the hearing officer or the county zoning board of appeals and the applicant to the hearing officer or the county zoning board of appeals. Provides that a notice of the filing of the administrative review action and information about the administrative review process, including the method to intervene, must be sent by certified mail to each person who appeared before and submitted oral testimony or written statements to the hearing officer or the zoning board of appeals. Effective July 1, 2007.

LRB095 03431 AJ0 23435 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 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) ~~subsection~~
9 ~~(b)~~, 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. No action for administrative review shall be
14 dismissed for lack of jurisdiction based upon the failure to
15 name an employee, agent, or member, who acted in his or her
16 official capacity, of an administrative agency, board,
17 committee, or government entity, where the administrative
18 agency, board, committee, or government entity, has been named
19 as a defendant as provided in this Section. Naming the director
20 or agency head, in his or her official capacity, shall be
21 deemed to include as defendant the administrative agency,
22 board, committee, or government entity that the named
23 defendants direct or head. No action for administrative review

1 shall be dismissed for lack of jurisdiction based upon the
2 failure to name an administrative agency, board, committee, or
3 government entity, where the director or agency head, in his or
4 her official capacity, has been named as a defendant as
5 provided in this Section.

6 If, during the course of a review action, the court
7 determines that a party of record to the administrative
8 proceedings was not made a defendant as required by the
9 preceding paragraph, and only if that party was not named by
10 the administrative agency in its final order as a party of
11 record, then the court shall grant the plaintiff 21 days from
12 the date of the determination in which to name and serve the
13 unnamed party as a defendant. The court shall permit the newly
14 served defendant to participate in the proceedings to the
15 extent the interests of justice may require.

16 (b) With respect to actions to review decisions of a zoning
17 board of appeals in a municipality with a population of 500,000
18 or more inhabitants under Division 13 of Article 11 of the
19 Illinois Municipal Code, "parties of record" means only the
20 zoning board of appeals and applicants before the zoning board
21 of appeals. The plaintiff shall send a notice of filing of the
22 action by certified mail to each other person who appeared
23 before and submitted oral testimony or written statements to
24 the zoning board of appeals with respect to the decision
25 appealed from. The notice shall be mailed within 2 days of the
26 filing of the action. The notice shall state the caption of the

1 action, the court in which the action is filed, and the names
2 of the plaintiff in the action and the applicant to the zoning
3 board of appeals. The notice shall inform the person of his or
4 her right to intervene. Each person who appeared before and
5 submitted oral testimony or written statements to the zoning
6 board of appeals with respect to the decision appealed from
7 shall have a right to intervene as a defendant in the action
8 upon application made to the court within 30 days of the
9 mailing of the notice.

10 (c) With respect to actions to review decisions of a
11 hearing officer or a county zoning board of appeals under
12 Division 5-12 of Article 5 of the Counties Code, "parties of
13 record" means only the hearing officer or the zoning board of
14 appeals and applicants before the hearing officer or the zoning
15 board of appeals. The plaintiff shall send a notice of filing
16 of the action by certified mail to each other person who
17 appeared before and submitted oral testimony or written
18 statements to the hearing officer or the zoning board of
19 appeals with respect to the decision appealed from. The notice
20 shall be mailed within 2 days of the filing of the action. The
21 notice shall state the caption of the action, the court in
22 which the action is filed, and the name of the plaintiff in the
23 action and the applicant to the hearing officer or the zoning
24 board of appeals. The notice shall inform the person of his or
25 her right to intervene. Each person who appeared before and
26 submitted oral testimony or written statements to the hearing

1 officer or the zoning board of appeals with respect to the
2 decision appealed from shall have a right to intervene as a
3 defendant in the action upon application made to the court
4 within 30 days of the mailing of the notice. This subsection
5 (c) applies to zoning proceedings commenced on or after the
6 effective date of this amendatory Act of the 95th General
7 Assembly.

8 (Source: P.A. 88-1; 88-655, eff. 9-16-94; 89-438, eff.
9 12-15-95; 89-685, eff. 6-1-97.)

10 Section 99. Effective date. This Act takes effect July 1,
11 2007.