

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.