



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4372

by Rep. Steven Andersson

#### SYNOPSIS AS INTRODUCED:

5 ILCS 100/10-50	from Ch. 127, par. 1010-50
735 ILCS 5/3-102	from Ch. 110, par. 3-102
735 ILCS 5/3-105	from Ch. 110, par. 3-105
735 ILCS 5/3-107	from Ch. 110, par. 3-107
735 ILCS 5/3-111	from Ch. 110, par. 3-111

Amends the Illinois Administrative Procedure Act. Provides that every final order under the Act 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. Provides that every final order shall also state whether the rules of the agency require any motion or request for reconsideration to make the decision reviewable under the Administrative Review Law and shall cite the rule for such requirement. Amends the Administrative Review Law of the Code of Civil Procedure. Provides that the Administrative Review Law shall be liberally construed in the interests of justice to grant an orderly method of judicial review of administrative agency decisions. Provides that service that is delivered to the official mailing address of the agency, board, or commission shall be deemed as proper service upon the agency, board, or commission even if the agency, board, or commission, or head of the agency, board, or commission, is misnamed. Makes corresponding changes. Provides that the changes apply to all actions filed under the Administrative Review Law on and after the effective date. Effective immediately.

LRB099 13225 HEP 37128 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 Illinois Administrative Procedure Act is  
5 amended by changing Section 10-50 as follows:

6 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)

7 Sec. 10-50. Decisions and orders.

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

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

1 shall contain a list of all parties of record to the case  
2 including the name and address of the agency or officer  
3 entering the order and the addresses of each party as known to  
4 the agency where the parties may be served with pleadings,  
5 notices, or service of process for any review or further  
6 proceedings. Every final order shall also state whether the  
7 rules of the agency require any motion or request for  
8 reconsideration to make the decision reviewable under the  
9 Administrative Review Law and shall cite the rule for the  
10 requirement. The changes made by this amendatory Act of the  
11 99th General Assembly apply to all actions filed under the  
12 Administrative Review Law on or after the effective date of  
13 this amendatory Act of the 99th General Assembly.

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

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

22 Section 10. The Code of Civil Procedure is amended by  
23 changing Sections 3-102, 3-105, 3-107, and 3-111 as follows:

24 (735 ILCS 5/3-102) (from Ch. 110, par. 3-102)

1           Sec. 3-102. Scope of Article. Article III of this Act shall  
2 apply to and govern every action to review judicially a final  
3 decision of any administrative agency where the Act creating or  
4 conferring power on such agency, by express reference, adopts  
5 the provisions of Article III of this Act or its predecessor,  
6 the Administrative Review Act. This Article shall be known as  
7 the "Administrative Review Law". In all such cases, any other  
8 statutory, equitable or common law mode of review of decisions  
9 of administrative agencies heretofore available shall not  
10 hereafter be employed.

11           Unless review is sought of an administrative decision  
12 within the time and in the manner herein provided, the parties  
13 to the proceeding before the administrative agency shall be  
14 barred from obtaining judicial review of such administrative  
15 decision. In an action to review any final decision of any  
16 administrative agency brought under Article III, if a judgment  
17 is reversed or entered against the plaintiff, or the action is  
18 voluntarily dismissed by the plaintiff, or the action is  
19 dismissed for want of prosecution, or the action is dismissed  
20 by a United States District Court for lack of jurisdiction,  
21 neither the plaintiff nor his or her heirs, executors, or  
22 administrators may commence a new action within one year or  
23 within the remaining period of limitation, whichever is  
24 greater. All proceedings in the court for revision of such  
25 final decision shall terminate upon the date of the entry of  
26 any Order under either Section 2-1009 or Section 13-217. Such

1 Order shall cause the final administrative decision of any  
2 administrative agency to become immediately enforceable. If  
3 under the terms of the Act governing the procedure before an  
4 administrative agency an administrative decision has become  
5 final because of the failure to file any document in the nature  
6 of objections, protests, petition for hearing or application  
7 for administrative review within the time allowed by such Act,  
8 such decision shall not be subject to judicial review hereunder  
9 excepting only for the purpose of questioning the jurisdiction  
10 of the administrative agency over the person or subject matter.

11 This Article shall be liberally construed in the interests  
12 of justice to grant an orderly method of judicial review of  
13 administrative agency decisions.

14 The changes made by this amendatory Act of the 99th General  
15 Assembly apply to all actions filed on or after the effective  
16 date of this amendatory Act of the 99th General Assembly.

17 (Source: P.A. 88-1.)

18 (735 ILCS 5/3-105) (from Ch. 110, par. 3-105)

19 Sec. 3-105. Service of summons. Summons issued in any  
20 action to review the final administrative decision of any  
21 administrative agency shall be served by registered or  
22 certified mail on the administrative agency and on each of the  
23 other defendants except in the case of a review of a final  
24 administrative decision of the regional board of school  
25 trustees, regional superintendent of schools, or State

1 Superintendent of Education, as the case may be, when a  
2 committee of 10 has been designated as provided in Section 7-6  
3 of the School Code, and in such case only the administrative  
4 agency involved and each of the committee of 10 shall be  
5 served. The method of service shall be as provided in the Act  
6 governing the procedure before the administrative agency, but  
7 if no method is provided, summons shall be deemed to have been  
8 served either when a copy of the summons is personally  
9 delivered or when a copy of the decision is deposited in the  
10 United States mail, in a sealed envelope or package, with  
11 postage prepaid, addressed to the party affected by the  
12 decision at his or her last known residence or place of  
13 business. The form of the summons and the issuance of alias  
14 summons shall be according to rules of the Supreme Court. No  
15 action for administrative review shall be dismissed for lack of  
16 jurisdiction based upon the failure to serve summons on an  
17 employee, agent, or member of an administrative agency, board,  
18 committee, or government entity, acting in his or her official  
19 capacity, where the administrative agency, board, committee,  
20 or government entity has been served as provided in this  
21 Section. Service that is delivered to the official mailing  
22 address of the agency, board, or commission shall be deemed as  
23 proper service upon the agency, board, or commission even if  
24 the agency, board, or commission or the head of the agency,  
25 board, or commission, is misnamed. Service on the director or  
26 agency head, in his or her official capacity, shall be deemed

1 service on the administrative agency, board, committee, or  
2 government entity. No action for administrative review shall be  
3 dismissed for lack of jurisdiction based upon the failure to  
4 serve summons on an administrative agency, board, committee, or  
5 government entity, acting, where the director or agency head,  
6 in his or her official capacity, has been served as provided in  
7 this Section. Service on the administrative agency shall be  
8 made by the clerk of the court by sending a copy of the summons  
9 addressed to the agency at its main office in the State. The  
10 clerk of the court shall also mail a copy of the summons to  
11 each of the other defendants, addressed to the last known place  
12 of residence or principal place of business of each such  
13 defendant. The plaintiff shall, by affidavit filed with the  
14 complaint, designate the last known address of each defendant  
15 upon whom service shall be made. The certificate of the clerk  
16 of the court that he or she has served such summons in  
17 pursuance of this Section shall be evidence that he or she has  
18 done so.

19 The changes to this Section made by this amendatory Act of  
20 the 95th General Assembly apply to all actions filed on or  
21 after the effective date of this amendatory Act of the 95th  
22 General Assembly. The changes made by this amendatory Act of  
23 the 99th General Assembly apply to all actions filed on or  
24 after the effective date of this amendatory Act of the 99th  
25 General Assembly.

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

1 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

2 Sec. 3-107. Defendants.

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

18 No action for administrative review shall be dismissed for  
19 lack of jurisdiction: (1) based upon the misnomer of an agency,  
20 board, or commission, party who receives actual notice of the  
21 action within the applicable time limits; or (2) for a ~~the~~  
22 failure to name an employee, agent, or member, who acted in his  
23 or her official capacity, of an administrative agency, board,  
24 committee, or government entity, where a timely action for  
25 administrative review has been filed that identifies the final



1 administrative decision under review and that makes a good  
2 faith effort to name the administrative agency ~~the~~  
3 ~~administrative agency, board, committee, or government entity,~~  
4 ~~has been named as a defendant as provided in this Section.~~

5 Naming the director or agency head, in his or her official  
6 capacity, shall be deemed to include as defendant the  
7 administrative agency, board, committee, or government entity  
8 that the named defendants direct or head. No action for  
9 administrative review shall be dismissed for lack of  
10 jurisdiction based upon the failure to name an administrative  
11 agency, board, committee, or government entity, where the  
12 director or agency head, in his or her official capacity, has  
13 been named as a defendant as provided in this Section.

14 If, during the course of a review action, the court  
15 determines that an agency or a party of record to the  
16 administrative proceedings was not made a defendant as required  
17 by the preceding paragraph, then the court shall grant the  
18 plaintiff 35 days from the date of the determination in which  
19 to name and serve the unnamed agency or party as a defendant.  
20 The court shall permit the newly served defendant to  
21 participate in the proceedings to the extent the interests of  
22 justice may require.

23 (b) With respect to actions to review decisions of a zoning  
24 board of appeals in a municipality with a population of 500,000  
25 or more inhabitants under Division 13 of Article 11 of the  
26 Illinois Municipal Code, "parties of record" means only the

1 zoning board of appeals and applicants before the zoning board  
2 of appeals. The plaintiff shall send a notice of filing of the  
3 action by certified mail to each other person who appeared  
4 before and submitted oral testimony or written statements to  
5 the zoning board of appeals with respect to the decision  
6 appealed from. The notice shall be mailed within 2 days of the  
7 filing of the action. The notice shall state the caption of the  
8 action, the court in which the action is filed, and the names  
9 of the plaintiff in the action and the applicant to the zoning  
10 board of appeals. The notice shall inform the person of his or  
11 her right to intervene. Each person who appeared before and  
12 submitted oral testimony or written statements to the zoning  
13 board of appeals with respect to the decision appealed from  
14 shall have a right to intervene as a defendant in the action  
15 upon application made to the court within 30 days of the  
16 mailing of the notice.

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

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

15 (d) The changes to this Section made by this amendatory Act  
16 of the 95th General Assembly apply to all actions filed on or  
17 after the effective date of this amendatory Act of the 95th  
18 General Assembly. The changes made by this amendatory Act of  
19 the 99th General Assembly apply to all actions filed on or  
20 after the effective date of this amendatory Act of the 99th  
21 General Assembly.

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

23 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)  
24 Sec. 3-111. Powers of circuit court.

25 (a) The Circuit Court has power:

1           (1) with or without requiring bond (except if otherwise  
2 provided in the particular statute under authority of which  
3 the administrative decision was entered), and before or  
4 after answer filed, upon notice to the agency and good  
5 cause shown, to stay the decision of the administrative  
6 agency in whole or in part pending the final disposition of  
7 the case. For the purpose of this subsection, "good cause"  
8 requires the applicant to show (i) that an immediate stay  
9 is required in order to preserve the status quo without  
10 endangering the public, (ii) that it is not contrary to  
11 public policy, and (iii) that there exists a reasonable  
12 likelihood of success on the merits;

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

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

18           (4) to dismiss parties, to correct misnomers including  
19 any erroneous identification of the agency, to realign  
20 parties, or to join agencies or parties;

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

23           (6) where a hearing has been held by the agency, to  
24 reverse and remand the decision in whole or in part, and,  
25 in that case, to state the questions requiring further  
26 hearing or proceedings and to give such other instructions

1 as may be proper;

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

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

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

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

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

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

1           (d) The changes to this Section made by this amendatory Act  
2 of the 95th General Assembly apply to all actions filed on or  
3 after the effective date of this amendatory Act of the 95th  
4 General Assembly. The changes made by this amendatory Act of  
5 the 99th General Assembly apply to all actions filed on or  
6 after the effective date of this amendatory Act of the 99th  
7 General Assembly.

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

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