

SB1447



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1447

Introduced 2/20/2015, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

735 ILCS 5/3-107

from Ch. 110, par. 3-107

Amends the Administrative Review Law of the Code of Civil Procedure. Provides that, as used in a Section concerning required parties in an action for administrative review, "parties of record" does not include a private citizen who was not acting in an official capacity or whose participation in the agency proceedings was limited to his or her attendance or testimony at a public hearing.

LRB099 10562 HEP 30789 b

A BILL FOR

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), in any
9 action to review any final decision of an administrative
10 agency, the administrative agency and all persons, other than
11 the plaintiff, who were parties of record to the proceedings
12 before the administrative agency shall be made defendants. The
13 method of service of the decision shall be as provided in the
14 Act governing the procedure before the administrative agency,
15 but if no method is provided, a decision shall be deemed to
16 have been served either when a copy of the decision is
17 personally delivered or when a copy of the decision is
18 deposited in the United States mail, in a sealed envelope or
19 package, with postage prepaid, addressed to the party affected
20 by the decision at his or her last known residence or place of
21 business. The form of the summons and the issuance of alias
22 summons shall be according to rules of the Supreme Court. As
23 used in this Section, "parties of record" does not include a

1 private citizen who was not acting in an official capacity or
2 whose participation in the agency proceedings was limited to
3 his or her attendance or testimony at a public hearing.

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

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

1 participate in the proceedings to the extent the interests of
2 justice may require.

3 (b) With respect to actions to review decisions of a zoning
4 board of appeals in a municipality with a population of 500,000
5 or more inhabitants 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 (c) With respect to actions to review decisions of a
24 hearing officer or a county zoning board of appeals under
25 Division 5-12 of Article 5 of the Counties Code, "parties of
26 record" means only the hearing officer or the zoning board of

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

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

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