

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 (a-5), (b), or (c), in  
9 any 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.

23 No action for administrative review shall be dismissed for

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

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

25 (a-5) A party of record shall not be named as a defendant  
26 under subsection (a) of this Section if the party of record is

1 a private citizen who was not acting in an official capacity or  
2 whose participation in the agency proceeding was limited to  
3 attendance or testimony at a public hearing or submission of  
4 written comments to the agency.

5 (b) With respect to actions to review decisions of a zoning  
6 board of appeals in a municipality with a population of 500,000  
7 or more inhabitants under Division 13 of Article 11 of the  
8 Illinois Municipal Code, "parties of record" means only the  
9 zoning board of appeals and applicants before the zoning board  
10 of appeals. The plaintiff shall send a notice of filing of the  
11 action by certified mail to each other person who appeared  
12 before and submitted oral testimony or written statements to  
13 the zoning board of appeals with respect to the decision  
14 appealed from. The notice shall be mailed within 2 days of the  
15 filing of the action. The notice shall state the caption of the  
16 action, the court in which the action is filed, and the names  
17 of the plaintiff in the action and the applicant to the zoning  
18 board of appeals. The notice shall inform the person of his or  
19 her right to intervene. Each person who appeared before and  
20 submitted oral testimony or written statements to the zoning  
21 board of appeals with respect to the decision appealed from  
22 shall have a right to intervene as a defendant in the action  
23 upon application made to the court within 30 days of the  
24 mailing of the notice.

25 (c) With respect to actions to review decisions of a  
26 hearing officer or a county zoning board of appeals under

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

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

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