



Sen. Dan Kotowski

**Filed: 3/12/2015**

09900SB1447sam002

LRB099 10562 HEP 32376 a

1 AMENDMENT TO SENATE BILL 1447

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1447 by replacing  
3 everything after the enacting clause with the following:

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

1 personally delivered or when a copy of the decision is  
2 deposited in the United States mail, in a sealed envelope or  
3 package, with postage prepaid, addressed to the party affected  
4 by the decision at his or her last known residence or place of  
5 business. The form of the summons and the issuance of alias  
6 summons shall be according to rules of the Supreme Court.

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

23 If, during the course of a review action, the court  
24 determines that an agency or a party of record to the  
25 administrative proceedings was not made a defendant as required  
26 by the preceding paragraph, then the court shall grant the

1 plaintiff 35 days from the date of the determination in which  
2 to name and serve the unnamed agency or party as a defendant.  
3 The court shall permit the newly served defendant to  
4 participate in the proceedings to the extent the interests of  
5 justice may require.

6 (a-5) A party of record shall not be named as a defendant  
7 under subsection (a) of this Section if the party of record is  
8 a private citizen who was not acting in an official capacity or  
9 whose participation in the agency proceeding was limited to  
10 attendance or testimony at a public hearing or submission of  
11 written comments to the agency.

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

1 submitted oral testimony or written statements to the zoning  
2 board of appeals with respect to the decision appealed from  
3 shall have a right to intervene as a defendant in the action  
4 upon application made to the court within 30 days of the  
5 mailing of the notice.

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

1 (c) applies to zoning proceedings commenced on or after the  
2 effective date of this amendatory Act of the 95th General  
3 Assembly.

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

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