



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB0731

Introduced 1/30/2017, by Sen. Laura M. Murphy

#### 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: the term "parties of record" does not include individuals who are not acting in an official capacity and whose participation in proceedings before an administrative agency is limited to attendance or testimony at a public hearing or submission of written statements to the agency; the plaintiff shall send a notice of filing of the action by certified mail to each individual who is not a party of record and who submitted testimony or a written statement to the administrative agency with respect to the decision from which the action to review is taken; and an individual who submitted testimony or a written statement to the administrative agency with respect to the decision from which the action to review is taken has a right to intervene as a defendant in the action upon application made to the court within 30 days of the mailing of the notice.

LRB100 08389 HEP 18501 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 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.

23 As used in this subsection (a), "parties of record" does

1 not include individuals who are not acting in an official  
2 capacity and whose participation in proceedings before an  
3 administrative agency is limited to attendance or testimony at  
4 a public hearing or submission of written statements to the  
5 agency. The plaintiff shall send a notice of filing of the  
6 action by certified mail to each individual who is not a party  
7 of record and who submitted testimony or a written statement to  
8 the administrative agency with respect to the decision from  
9 which the action to review is taken. The notice shall be mailed  
10 within 2 days of the filing of the action. The notice shall  
11 include the caption of the action, the court in which the  
12 action is filed, and the names of all parties of record. The  
13 notice shall inform the individual of his or her right to  
14 intervene. An individual who submitted testimony or a written  
15 statement to the administrative agency with respect to the  
16 decision from which the action to review is taken has a right  
17 to intervene as a defendant in the action upon application made  
18 to the court within 30 days of the mailing of the notice.

19 No action for administrative review shall be dismissed for  
20 lack of jurisdiction based upon the failure to name an  
21 employee, agent, or member, who acted in his or her official  
22 capacity, of an administrative agency, board, committee, or  
23 government entity, where the administrative agency, board,  
24 committee, or government entity, has been named as a defendant  
25 as provided in this Section. Naming the director or agency  
26 head, in his or her official capacity, shall be deemed to

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

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

18 (b) With respect to actions to review decisions of a zoning  
19 board of appeals in a municipality with a population of 500,000  
20 or more inhabitants under Division 13 of Article 11 of the  
21 Illinois Municipal Code, "parties of record" means only the  
22 zoning board of appeals and applicants before the zoning board  
23 of appeals. The plaintiff shall send a notice of filing of the  
24 action by certified mail to each other person who appeared  
25 before and submitted oral testimony or written statements to  
26 the zoning board of appeals with respect to the decision

1 appealed from. The notice shall be mailed within 2 days of the  
2 filing of the action. The notice shall state the caption of the  
3 action, the court in which the action is filed, and the names  
4 of the plaintiff in the action and the applicant to 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 zoning  
8 board of appeals with respect to the decision appealed from  
9 shall have a right to intervene as a defendant in the action  
10 upon application made to the court within 30 days of the  
11 mailing of the notice.

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

1 her right to intervene. Each person who appeared before and  
2 submitted oral testimony or written statements to the hearing  
3 officer or the zoning board of appeals with respect to the  
4 decision appealed from shall have a right to intervene as a  
5 defendant in the action upon application made to the court  
6 within 30 days of the mailing of the notice. This subsection  
7 (c) applies to zoning proceedings commenced on or after the  
8 effective date of this amendatory Act of the 95th General  
9 Assembly.

10 (d) The changes to this Section made by this amendatory Act  
11 of the 95th General Assembly apply to all actions filed on or  
12 after the effective date of this amendatory Act of the 95th  
13 General Assembly.

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