



Rep. Martin J. Moylan

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09900SB1447ham001

LRB099 10562 JLS 35313 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 (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

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

26 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 (b) With respect to actions to review decisions of a zoning  
26 board of appeals in a municipality with a population of 500,000

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

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

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

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

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