

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 2-616 as follows:

6 (735 ILCS 5/2-616) (from Ch. 110, par. 2-616)

7 Sec. 2-616. Amendments.

8 (a) At any time before final judgment amendments may be
9 allowed on just and reasonable terms, introducing any party
10 who ought to have been joined as plaintiff or defendant,
11 dismissing any party, changing the cause of action or defense
12 or adding new causes of action or defenses, and in any matter,
13 either of form or substance, in any process, pleading, bill of
14 particulars or proceedings, which may enable the plaintiff to
15 sustain the claim for which it was intended to be brought or
16 the defendant to make a defense or assert a cross claim.

17 (b) The cause of action, cross claim or defense set up in
18 any amended pleading shall not be barred by lapse of time under
19 any statute or contract prescribing or limiting the time
20 within which an action may be brought or right asserted, if the
21 time prescribed or limited had not expired when the original
22 pleading was filed, and if it shall appear from the original
23 and amended pleadings that the cause of action asserted, or

1 the defense or cross claim interposed in the amended pleading
2 grew out of the same transaction or occurrence set up in the
3 original pleading, even though the original pleading was
4 defective in that it failed to allege the performance of some
5 act or the existence of some fact or some other matter which is
6 a necessary condition precedent to the right of recovery or
7 defense asserted, if the condition precedent has in fact been
8 performed, and for the purpose of preserving the cause of
9 action, cross claim or defense set up in the amended pleading,
10 and for that purpose only, an amendment to any pleading shall
11 be held to relate back to the date of the filing of the
12 original pleading so amended.

13 (b-5) If a clerk's office rejects an electronically
14 submitted document for any of the reasons stated in the
15 Electronic Filing Rejection Standards as provided by the
16 Supreme Court Rules, the later filing of the original document
17 with the error or errors corrected relates back to the earlier
18 date of the electronic submission of the original document.
19 Any submission of a corrected original document as set forth
20 in this subsection must be made within 7 business days of the
21 date that the clerk's office served notice upon the party that
22 it has rejected the submitted document.

23 (b-10) If a clerk's office does not file an electronically
24 submitted document because of a technical failure of any
25 court-approved electronic filing system, the later filing of
26 that document relates back to the date the original document

1 was electronically submitted.

2 (c) A pleading may be amended at any time, before or after
3 judgment, to conform the pleadings to the proofs, upon terms
4 as to costs and continuance that may be just.

5 (d) A cause of action against a person not originally
6 named a defendant is not barred by lapse of time under any
7 statute or contract prescribing or limiting the time within
8 which an action may be brought or right asserted, if all the
9 following terms and conditions are met: (1) the time
10 prescribed or limited had not expired when the original action
11 was commenced; (2) the person, within the time that the action
12 might have been brought or the right asserted against him or
13 her plus the time for service permitted under Supreme Court
14 Rule 103(b), received such notice of the commencement of the
15 action that the person will not be prejudiced in maintaining a
16 defense on the merits and knew or should have known that, but
17 for a mistake concerning the identity of the proper party, the
18 action would have been brought against him or her; and (3) it
19 appears from the original and amended pleadings that the cause
20 of action asserted in the amended pleading grew out of the same
21 transaction or occurrence set up in the original pleading,
22 even though the original pleading was defective in that it
23 failed to allege the performance of some act or the existence
24 of some fact or some other matter which is a necessary
25 condition precedent to the right of recovery when the
26 condition precedent has in fact been performed, and even

1 though the person was not named originally as a defendant. For
2 the purpose of preserving the cause of action under those
3 conditions, an amendment adding the person as a defendant
4 relates back to the date of the filing of the original pleading
5 so amended.

6 (e) A cause of action against a beneficiary of a land trust
7 not originally named a defendant is not barred by lapse of time
8 under any statute or contract prescribing or limiting the time
9 within which an action may be brought or right asserted, if all
10 the following terms and conditions are met: (1) the cause of
11 action arises from the ownership, use or possession of real
12 estate, record title where to is held by a land trustee; (2) the
13 time prescribed or limited had not expired when the original
14 action was commenced; (3) the land trustee of record is named
15 as a defendant; and (4) the plaintiff proceeds with reasonable
16 diligence subsequent to the commencement of the action to
17 serve process upon the land trustee, to determine the identity
18 of the beneficiary, and to amend the complaint to name the
19 beneficiary as a defendant.

20 (f) The changes made by this amendatory Act of the 92nd
21 General Assembly apply to all complaints filed on or after the
22 effective date of this amendatory Act, and to complaints filed
23 before the effective date of this amendatory Act if the
24 limitation period has not ended before the effective date.

25 (g) The changes made by this amendatory Act of the 104th
26 General Assembly apply to actions commenced or pending on or

1 after the effective date of this amendatory Act.

2 (Source: P.A. 92-116, eff. 1-1-02.)