



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0283

Introduced 2/2/2023, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

735 ILCS 5/3-107

from Ch. 110, par. 3-107

Amends the Administrative Review Article of the Code of Civil Procedure. Provides that with respect to an action to review a decision of an administrative agency with final decision-making authority over designated historic properties or areas or a decision of an administrative agency with final decision-making authority over exterior design review of buildings or structures, "parties of record" means only the administrative agency and applicants before the administrative agency, and "parties of record" does not mean persons who appeared before and submitted oral testimony or written statements to the zoning board of appeals with respect to the decision appealed. Provides that, within 2 days of filing the action, the plaintiff shall send a notice of filing of the action by certified mail to each other person who appeared before and submitted oral testimony or a written statement to the administrative agency with respect to the appealed decision. Provides that the notice shall state the caption of the action, the court in which the action was filed, and the names of the plaintiff in the action and the applicant to the administrative agency. Provides that the notice shall inform the person of his or her right to intervene. Provides that each person who appeared before and submitted oral testimony or a written statement to the administrative agency with respect to the appealed decision shall have 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.

LRB103 27660 LNS 54037 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), (b-1), or (c),
9 in any action to review any final decision of an
10 administrative agency, the administrative agency and all
11 persons, other than the plaintiff, who were parties of record
12 to the proceedings before the administrative agency shall be
13 made defendants. The method of service of the decision shall
14 be as provided in the Act governing the procedure before the
15 administrative agency, but if no method is provided, a
16 decision shall be deemed to have been served either when a copy
17 of the decision is personally delivered or when a copy of the
18 decision is deposited in the United States mail, in a sealed
19 envelope or package, with postage prepaid, addressed to the
20 party affected by the decision at his or her last known
21 residence or place of business. The form of the summons and the
22 issuance of alias summons shall be according to rules of the
23 Supreme Court.

1 No action for administrative review shall be dismissed for
2 lack of jurisdiction: (1) based upon misnomer of an agency,
3 board, commission, or party that is properly served with
4 summons that was issued in the action within the applicable
5 time limits; or (2) for a failure to name an employee, agent,
6 or member, who acted in his or her official capacity, of an
7 administrative agency, board, committee, or government entity
8 where a timely action for administrative review has been filed
9 that identifies the final administrative decision under review
10 and that makes a good faith effort to properly name the
11 administrative agency, board, committee, or government entity.
12 Naming the director or agency head, in his or her official
13 capacity, shall be deemed to include as defendant the
14 administrative agency, board, committee, or government entity
15 that the named defendants direct or head. No action for
16 administrative review shall be dismissed for lack of
17 jurisdiction based upon the failure to name an administrative
18 agency, board, committee, or government entity, where the
19 director or agency head, in his or her official capacity, has
20 been named as a defendant as provided in this Section.

21 If, during the course of a review action, the court
22 determines that an agency or a party of record to the
23 administrative proceedings was not made a defendant as
24 required by the preceding paragraph, then the court shall
25 grant the plaintiff 35 days from the date of the determination
26 in which to name and serve the unnamed agency or party as a

1 defendant. The court shall permit the newly served defendant
2 to participate in the proceedings to the extent the interests
3 of justice may require.

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

23 (b-1) With respect to an action to review a decision of an
24 administrative agency with final decision-making authority
25 over designated historic properties or areas under Section
26 11-48.2-4 of the Illinois Municipal Code or a decision of an

1 administrative agency with final decision-making authority
2 over exterior design review of buildings or structures under
3 item (12) of Section 11-13-1 of the Illinois Municipal Code,
4 "parties of record" means only the administrative agency and
5 applicants before the administrative agency. "Parties of
6 record" does not mean persons who appeared before and
7 submitted oral testimony or written statements to the zoning
8 board of appeals with respect to the decision appealed. Such
9 persons shall not be named in an action to review decisions of
10 a zoning board of appeal unless they intervene in accordance
11 with the final sentence of this subsection. The plaintiff
12 shall send a notice of filing of the action by certified mail
13 to each other person who appeared before and submitted oral
14 testimony or a written statement to the administrative agency
15 with respect to the appealed decision. The notice shall be
16 mailed within 2 days of the filing of the action. The notice
17 shall state the caption of the action, the court in which the
18 action was filed, and the names of the plaintiff in the action
19 and the applicant to the administrative agency. The notice
20 shall inform the person of his or her right to intervene. Each
21 person who appeared before and submitted oral testimony or a
22 written statement to the administrative agency with respect to
23 the appealed decision shall have a right to intervene as a
24 defendant in the action upon application made to the court
25 within 30 days of the mailing of the notice.

26 (c) With respect to actions to review decisions of a

1 hearing officer or a county zoning board of appeals under
2 Division 5-12 of Article 5 of the Counties Code, "parties of
3 record" means only the hearing officer or the zoning board of
4 appeals and applicants before the hearing officer or the
5 zoning board of appeals. The plaintiff shall send a notice of
6 filing of the action by certified mail to each other person who
7 appeared before and submitted oral testimony or written
8 statements to the hearing officer or the zoning board of
9 appeals with respect to the decision appealed from. The notice
10 shall be mailed within 2 days of the filing of the action. The
11 notice shall state the caption of the action, the court in
12 which the action is filed, and the name of the plaintiff in the
13 action and the applicant to the hearing officer or the zoning
14 board of appeals. The notice shall inform the person of his or
15 her right to intervene. Each person who appeared before and
16 submitted oral testimony or written statements to the hearing
17 officer or the zoning board of appeals with respect to the
18 decision appealed from shall have a right to intervene as a
19 defendant in the action upon application made to the court
20 within 30 days of the mailing of the notice. This subsection
21 (c) applies to zoning proceedings commenced on or after July
22 1, 2007 (the effective date of Public Act 95-321).

23 (d) The changes to this Section made by Public Act 95-831
24 apply to all actions filed on or after August 21, 2007 (the
25 effective date of Public Act 95-831). The changes made by
26 Public Act 100-212 apply to all actions filed on or after

1 August 18, 2017 (the effective date of Public Act 100-212).
2 (Source: P.A. 100-83, eff. 1-1-18; 100-212, eff. 8-18-17;
3 100-863, eff. 8-14-18.)