



Sen. Julie A. Morrison

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10300SB0283sam001

LRB103 27660 LNS 57392 a

1 AMENDMENT TO SENATE BILL 283

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 283 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), (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

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

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

1 been named as a defendant as provided in this Section.

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

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

1 shall have a right to intervene as a defendant in the action  
2 upon application made to the court within 30 days of the  
3 mailing of the notice.

4 (b-1) With respect to an action to review a decision of an  
5 administrative agency with final decision-making authority  
6 over designated historic properties or areas under Section  
7 11-48.2-4 of the Illinois Municipal Code or a decision of an  
8 administrative agency with final decision-making authority  
9 over exterior design review of buildings or structures under  
10 item (12) of Section 11-13-1 of the Illinois Municipal Code,  
11 "parties of record" means only the administrative agency and  
12 applicants before the administrative agency. The plaintiff  
13 shall send a notice of filing of the action by certified mail  
14 to each other person who appeared before and submitted oral  
15 testimony or a written statement to the administrative agency  
16 with respect to the appealed decision. The notice shall be  
17 mailed within 2 days of the filing of the action. The notice  
18 shall state the caption of the action, the court in which the  
19 action was filed, and the names of the plaintiff in the action  
20 and the applicant to the administrative agency. The notice  
21 shall inform the person of his or her right to intervene. Each  
22 person who appeared before and submitted oral testimony or a  
23 written statement to the administrative agency with respect to  
24 the appealed decision 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.

1           (c) With respect to actions to review decisions of a  
2 hearing officer or a county zoning board of appeals under  
3 Division 5-12 of Article 5 of the Counties Code, "parties of  
4 record" means only the hearing officer or the zoning board of  
5 appeals and applicants before the hearing officer or the  
6 zoning board of appeals. The plaintiff shall send a notice of  
7 filing of the action by certified mail to each other person who  
8 appeared before and submitted oral testimony or written  
9 statements to the hearing officer or the zoning board of  
10 appeals with respect to the decision appealed from. The notice  
11 shall be mailed within 2 days of the filing of the action. The  
12 notice shall state the caption of the action, the court in  
13 which the action is filed, and the name of the plaintiff in the  
14 action and the applicant to the hearing officer or the zoning  
15 board of appeals. The notice shall inform the person of his or  
16 her right to intervene. Each person who appeared before and  
17 submitted oral testimony or written statements to the hearing  
18 officer or the zoning board of appeals with respect to the  
19 decision appealed from shall have a right to intervene as a  
20 defendant in the action upon application made to the court  
21 within 30 days of the mailing of the notice. This subsection  
22 (c) applies to zoning proceedings commenced on or after July  
23 1, 2007 (the effective date of Public Act 95-321).

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

1 Public Act 100-212 apply to all actions filed on or after  
2 August 18, 2017 (the effective date of Public Act 100-212).  
3 (Source: P.A. 100-83, eff. 1-1-18; 100-212, eff. 8-18-17;  
4 100-863, eff. 8-14-18.)".