



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5329

Introduced 2/8/2012, by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

735 ILCS 5/1-105	from Ch. 110, par. 1-105
735 ILCS 5/2-406	from Ch. 110, par. 2-406
735 ILCS 5/5-110	from Ch. 110, par. 5-110
735 ILCS 5/5-122.1 new	

Amends the Code of Civil Procedure. Authorizes the Illinois Supreme Court to adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions. Provides that, if a limitation period that applies to a plaintiff's cause of action has expired, then a defendant may not, after the expiration of that period, designate a third-party defendant with respect to that cause of action. Provides that, if a circuit court grants or denies, in whole or in part, a motion to dismiss due to the absence of a basis in law or fact for the action, then the court may award costs and reasonable and necessary attorney's fees to the prevailing party in amounts that the court determines are equitable and just. Authorizes reasonable deposition fees to be recovered as costs.

LRB097 18920 AJO 64158 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 Sections 1-105, 2-406, 5-110, and 5-122.1 as follows:

6 (735 ILCS 5/1-105) (from Ch. 110, par. 1-105)

7 Sec. 1-105. Enforcement of Act and rules.

8 (a) The Supreme Court may provide by rule for the orderly
9 and expeditious administration and enforcement of this Act and
10 of the rules, including the striking of pleadings, the
11 dismissal of claims, the entry of defaults, the assessment of
12 costs, the assessment against an offending party of the
13 reasonable expenses, including attorney's fees, which any
14 violation causes another party to incur, or other action that
15 may be appropriate.

16 (b) The Supreme Court may also adopt rules to promote the
17 prompt, efficient, and cost-effective resolution of civil
18 actions in which the amount in controversy, inclusive of all
19 claims for damages of any kind, whether actual or exemplary, a
20 penalty, attorney's fees, expenses, costs, interest, or any
21 other type of damage of any kind, is more than \$10,000 but does
22 not exceed \$100,000. The rules shall address the need for
23 lowering discovery costs in these actions and the procedure for

1 ensuring that these actions will be expedited in the civil
2 justice system.

3 (Source: P.A. 82-280.)

4 (735 ILCS 5/2-406) (from Ch. 110, par. 2-406)

5 Sec. 2-406. Bringing in new parties - Third-party
6 proceedings. (a) If a complete determination of a controversy
7 cannot be had without the presence of other parties, the court
8 may direct them to be brought in. If a person, not a party, has
9 an interest or title which the judgment may affect, the court,
10 on application, shall direct such person to be made a party.

11 (b) Within the time for filing his or her answer or
12 thereafter by leave of court, a defendant may by third-party
13 complaint bring in as a defendant a person not a party to the
14 action who is or may be liable to him or her for all or part of
15 the plaintiff's claim against him or her. Subsequent pleadings
16 shall be filed as in the case of a complaint and with like
17 designation and effect. The third-party defendant may assert
18 any defenses which he or she has to the third-party complaint
19 or which the third-party plaintiff has to the plaintiff's claim
20 and shall have the same right to file a counterclaim or
21 third-party complaint as any other defendant. If the plaintiff
22 desires to assert against the third-party defendant any claim
23 which the plaintiff might have asserted against the third-party
24 defendant had he or she been joined originally as a defendant,
25 the plaintiff shall do so by an appropriate pleading. When a

1 counterclaim is filed against a party, the party may in like
2 manner proceed against third parties. Nothing herein applies to
3 liability insurers.

4 (c) An action is commenced against a new party by the
5 filing of an appropriate pleading or the entry of an order
6 naming him or her a party. Service of process shall be had upon
7 a new party in like manner as is provided for service on a
8 defendant.

9 (d) If a limitation period that applies to a plaintiff's
10 cause of action has expired, then a defendant may not, after
11 the expiration of that period, designate a third-party
12 defendant with respect to that cause of action.

13 (Source: P.A. 82-280.)

14 (735 ILCS 5/5-110) (from Ch. 110, par. 5-110)

15 Sec. 5-110. Judgment on motion.

16 (a) If in any action, judgment upon any motion directed to
17 the complaint, answer or reply, by either party to the action,
18 is entered against the plaintiff, the defendant shall recover
19 costs against the plaintiff. If such judgment is entered in
20 favor of the plaintiff, the plaintiff shall recover costs
21 against the defendant; and the person so recovering costs may
22 collect same in the same manner as judgments for the payment of
23 money are enforced.

24 (b) Notwithstanding subsection (a), if a circuit court
25 grants or denies, in whole or in part, a motion to dismiss

1 under Section 2-615 due to the absence of a basis in law or
2 fact for the action, then the court may award costs and
3 reasonable and necessary attorney's fees to the prevailing
4 party in amounts that the court determines are equitable and
5 just. This subsection (b) does not apply to actions by or
6 against the State, other governmental entities, or public
7 officials acting in their official capacity or under color of
8 law.

9 (Source: P.A. 82-280.)

10 (735 ILCS 5/5-122.1 new)

11 Sec. 5-122.1. Reasonable deposition fees as costs.

12 Reasonable deposition fees may be recovered as costs.