



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2456

Introduced 2/17/2015, 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 in which the amount in controversy is more than \$10,000 but does not exceed \$100,000. 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.

LRB099 03804 HEP 23817 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 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. Deposition fees. Reasonable deposition fees  
12 may be recovered as costs.