

AN ACT concerning administrative review.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Civil Procedure is amended by changing Sections 3-103, 3-105, 3-107, 3-111, and 3-113 as follows:

(735 ILCS 5/3-103) (from Ch. 110, par. 3-103)

Sec. 3-103. Commencement of action. Every action to review a final administrative decision shall be commenced by the filing of a complaint and the issuance of summons within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision, except that÷

~~(1)~~ in municipalities with a population of 500,000 or less a complaint filed within the time limit established by this Section may be subsequently amended to add a police chief or a fire chief in cases brought under the Illinois Municipal Code's provisions providing for the discipline of fire fighters and police officers. ~~÷ and~~

~~(2) in other actions for review of a final administrative decision, a complaint filed within the time limit established by this Section may be amended to add an employee, agent, or member of an administrative agency,~~

~~board, committee, or government entity, who acted in an official capacity as a party of record to the administrative proceeding, if the administrative agency, board, committee, or government entity is a party to the administrative review action. If the director or agency head, in his or her official capacity, is a party to the administrative review, a complaint filed within the time limit established by this Section may be amended to add the administrative agency, board, committee, or government entity.~~

The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business.

The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

This amendatory Act of 1993 applies to all cases involving discipline of fire fighters and police officers pending on its effective date and to all cases filed on or after its effective date.

The changes to this Section made by this amendatory Act of

the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 88-110; 88-670, eff. 12-2-94; 89-685, eff. 6-1-97.)

(735 ILCS 5/3-105) (from Ch. 110, par. 3-105)

Sec. 3-105. Service of summons. Summons issued in any action to review the final administrative decision of any administrative agency shall be served by registered or certified mail on the administrative agency and on each of the other defendants except in the case of a review of a final administrative decision of the regional board of school trustees, regional superintendent of schools, or State Superintendent of Education, as the case may be, when a committee of 10 has been designated as provided in Section 7-6 of the School Code, and in such case only the administrative agency involved and each of the committee of 10 shall be served. The method of service shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, summons shall be deemed to have been served either when a copy of the summons is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of

business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to serve summons on an employee, agent, or member of an administrative agency, board, committee, or government entity, acting in his or her official capacity, where the administrative agency, board, committee, or government entity has been served as provided in this Section. Service on the director or agency head, in his or her official capacity, shall be deemed service on the administrative agency, board, committee, or government entity. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to serve summons on an administrative agency, board, committee, or government entity, acting, where the director or agency head, in his or her official capacity, has been served as provided in this Section. Service on the administrative agency shall be made by the clerk of the court by sending a copy of the summons addressed to the agency at its main office in the State. The clerk of the court shall also mail a copy of the summons to each of the other defendants, addressed to the last known place of residence or principal place of business of each such defendant. The plaintiff shall, by affidavit filed with the complaint, designate the last known address of each defendant upon whom service shall be made. The certificate of the clerk of the court that he or she has served such summons in pursuance of

this Section shall be evidence that he or she has done so.

The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 89-685, eff. 6-1-97.)

(735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

Sec. 3-107. Defendants.

(a) Except as provided in subsection (b) or (c), in any action to review any final decision of an administrative agency, the administrative agency and all persons, other than the plaintiff, who were parties of record to the proceedings before the administrative agency shall be made defendants. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to name an

employee, agent, or member, who acted in his or her official capacity, of an administrative agency, board, committee, or government entity, where the administrative agency, board, committee, or government entity, has been named as a defendant as provided in this Section. Naming the director or agency head, in his or her official capacity, shall be deemed to include as defendant the administrative agency, board, committee, or government entity that the named defendants direct or head. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to name an administrative agency, board, committee, or government entity, where the director or agency head, in his or her official capacity, has been named as a defendant as provided in this Section.

If, during the course of a review action, the court determines that an agency or a party of record to the administrative proceedings was not made a defendant as required by the preceding paragraph, ~~and only if that party was not named by the administrative agency in its final order as a party of record,~~ then the court shall grant the plaintiff 35 ~~21~~ days from the date of the determination in which to name and serve the unnamed agency or party as a defendant. The court shall permit the newly served defendant to participate in the proceedings to the extent the interests of justice may require.

(b) With respect to actions to review decisions of a zoning board of appeals in a municipality with a population of 500,000

or more inhabitants under Division 13 of Article 11 of the Illinois Municipal Code, "parties of record" means only the zoning board of appeals and applicants before the zoning board of appeals. 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 written statements to the zoning board of appeals with respect to the decision appealed from. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action is filed, and the names of the plaintiff in the action and the applicant to the zoning board of appeals. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or written statements to the zoning board of appeals with respect to the decision appealed from 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.

(c) With respect to actions to review decisions of a hearing officer or a county zoning board of appeals under Division 5-12 of Article 5 of the Counties Code, "parties of record" means only the hearing officer or the zoning board of appeals and applicants before the hearing officer or the zoning board of appeals. 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 written

statements to the hearing officer or the zoning board of appeals with respect to the decision appealed from. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action is filed, and the name of the plaintiff in the action and the applicant to the hearing officer or the zoning board of appeals. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or written statements to the hearing officer or the zoning board of appeals with respect to the decision appealed from 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. This subsection (c) applies to zoning proceedings commenced on or after the effective date of this amendatory Act of the 95th General Assembly.

(d) The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 95-321, eff. 8-21-07.)

(735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

Sec. 3-111. Powers of circuit court.

(a) The Circuit Court has power:

(1) with or without requiring bond (except if otherwise

provided in the particular statute under authority of which the administrative decision was entered), and before or after answer filed, upon notice to the agency and good cause shown, to stay the decision of the administrative agency in whole or in part pending the final disposition of the case. For the purpose of this subsection, "good cause" requires the applicant to show (i) that an immediate stay is required in order to preserve the status quo without endangering the public, (ii) that it is not contrary to public policy, and (iii) that there exists a reasonable likelihood of success on the merits;

(2) to make any order that it deems proper for the amendment, completion or filing of the record of proceedings of the administrative agency;

(3) to allow substitution of parties by reason of marriage, death, bankruptcy, assignment or other cause;

(4) to dismiss parties, to correct misnomers, ~~or to realign parties, or to join agencies or parties~~ ~~plaintiffs and defendants;~~

(5) to affirm or reverse the decision in whole or in part;

(6) where a hearing has been held by the agency, to reverse and remand the decision in whole or in part, and, in that case, to state the questions requiring further hearing or proceedings and to give such other instructions as may be proper;

(7) where a hearing has been held by the agency, to remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it shall appear that such action is just. However, no remandment shall be made on the ground of newly discovered evidence unless it appears to the satisfaction of the court that such evidence has in fact been discovered subsequent to the termination of the proceedings before the administrative agency and that it could not by the exercise of reasonable diligence have been obtained at such proceedings; and that such evidence is material to the issues and is not cumulative;

(8) in case of affirmance or partial affirmance of an administrative decision which requires the payment of money, to enter judgment for the amount justified by the record and for costs, which judgment may be enforced as other judgments for the recovery of money;

(9) when the particular statute under authority of which the administrative decision was entered requires the plaintiff to file a satisfactory bond and provides for the dismissal of the action for the plaintiff's failure to comply with this requirement unless the court is authorized by the particular statute to enter, and does enter, an order imposing a lien upon the plaintiff's property, to take such proofs and to enter such orders as may be appropriate to carry out the provisions of the particular

statute. However, the court shall not approve the bond, nor enter an order for the lien, in any amount which is less than that prescribed by the particular statute under authority of which the administrative decision was entered if the statute provides what the minimum amount of the bond or lien shall be or provides how said minimum amount shall be determined. No such bond shall be approved by the court without notice to, and an opportunity to be heard thereon by, the administrative agency affected. The lien, created by the entry of a court order in lieu of a bond, shall not apply to property exempted from the lien by the particular statute under authority of which the administrative decision was entered. The lien shall not be effective against real property whose title is registered under the provisions of the Registered Titles (Torrens) Act until the provisions of Section 85 of that Act are complied with.

(b) Technical errors in the proceedings before the administrative agency or its failure to observe the technical rules of evidence shall not constitute grounds for the reversal of the administrative decision unless it appears to the court that such error or failure materially affected the rights of any party and resulted in substantial injustice to him or her.

(c) On motion of either party, the circuit court shall make findings of fact or state the propositions of law upon which its judgment is based.

(d) The changes to this Section made by this amendatory Act

of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 88-184; 88-670, eff. 12-2-94.)

(735 ILCS 5/3-113)

Sec. 3-113. Direct review of administrative orders by the appellate court.

(a) Unless another time is provided specifically by the law authorizing the review, an action for direct review of a final administrative decision of an administrative agency by the appellate court shall be commenced by the filing of a petition for review in the appellate court within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business.

(b) The petition for review shall be filed in the appellate court and shall specify the parties seeking review and shall designate the respondent and the order or part thereof to be

reviewed. The administrative agency and all persons, other than the petitioner, who were ~~other~~ parties of record to the proceedings before the administrative agency shall be made ~~named~~ respondents. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

If, during the course of a review action, the court determines that an agency or a party of record to the administrative proceedings was not made a defendant as required by the preceding paragraph, ~~and only if that party was not named by the administrative agency in its final order as a party of record,~~ then the court shall grant the plaintiff 35 ~~21~~ days from the date of the determination in which to name and serve the unnamed agency or party as a defendant. The court shall permit the newly served defendant to participate in the proceedings to the extent the interests of justice may require.

(c) The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th

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General Assembly.

(Source: P.A. 88-1; 89-438, eff. 12-15-95.)

Section 99. Effective date. This Act takes effect upon becoming law.