



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5119

by Rep. Steven A. Andersson

SYNOPSIS AS INTRODUCED:

735 ILCS 5/3-101	from Ch. 110, par. 3-101
735 ILCS 5/3-101.5 new	
735 ILCS 5/3-102	from Ch. 110, par. 3-102
735 ILCS 5/3-103	from Ch. 110, par. 3-103
735 ILCS 5/3-107	from Ch. 110, par. 3-107
735 ILCS 5/3-110	from Ch. 110, par. 3-110
735 ILCS 5/3-111	from Ch. 110, par. 3-111
735 ILCS 5/3-113	

Amends the Administrative Review Law of the Code of Civil Procedure. In the definition of "administrative decision", changes references to "parties" to "persons". Provides that administrative decisions made reviewable by statute and final administrative decisions for which there is no other adequate remedy in a court are subject to judicial review. Provides that a person suffering legal wrong because of an administrative decision, or adversely affected or aggrieved by an administrative decision, is entitled to judicial review of the administrative decision. Provides that the Administrative Review Law shall apply to and govern every action to review judicially a final decision of any administrative agency unless the action is governed by the procedures or provisions of another statute. Strikes language concerning the scope of the Administrative Review Law. Provides that every action to review a final administrative decision shall be commenced by the filing of a complaint and the issuance of summons within 60 (instead of 35) days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision. Makes other changes in Sections concerning commencement of action; defendants; scope of review; powers of the circuit court; and direct review of administrative orders by the appellate court. Effective immediately.

LRB100 18179 HEP 33377 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 3-101, 3-102, 3-103, 3-107, 3-110, 3-111, and
6 3-113 and by adding Section 3-101.5 as follows:

7 (735 ILCS 5/3-101) (from Ch. 110, par. 3-101)

8 Sec. 3-101. Definitions. For the purpose of this Act:

9 "Administrative agency" means a person, body of persons,
10 group, officer, board, bureau, commission or department (other
11 than a court or judge) of the State, or of any political
12 subdivision of the State or municipal corporation in the State,
13 having power under law to make administrative decisions.

14 "Administrative decision" or "decision" means any
15 decision, order or determination of any administrative agency
16 rendered in a particular case, which affects the legal rights,
17 duties or privileges of persons ~~parties~~ and which terminates
18 the proceedings before the administrative agency. In all cases
19 in which a statute or a rule of the administrative agency
20 requires or permits an application for a rehearing or other
21 method of administrative review to be filed within a specified
22 time (as distinguished from a statute which permits the
23 application for rehearing or administrative review to be filed

1 at any time before judgment by the administrative agency
2 against the applicant or within a specified time after the
3 entry of such judgment), and an application for such rehearing
4 or review is made, no administrative decision of such agency
5 shall be final as to the person ~~party~~ applying therefor until
6 such rehearing or review is had or denied. However, if the
7 particular statute permits an application for rehearing or
8 other method of administrative review to be filed with the
9 administrative agency for an indefinite period of time after
10 the administrative decision has been rendered (such as
11 permitting such application to be filed at any time before
12 judgment by the administrative agency against the applicant or
13 within a specified time after the entry of such judgment), then
14 the authorization for the filing of such application for
15 rehearing or review shall not postpone the time when the
16 administrative decision as to which such application shall be
17 filed would otherwise become final, but the filing of the
18 application for rehearing or review with the administrative
19 agency in this type of case shall constitute the commencement
20 of a new proceeding before such agency, and the decision
21 rendered in order to dispose of such rehearing or other review
22 proceeding shall constitute a new and independent
23 administrative decision. If such new and independent decision
24 consists merely of the denial of the application for rehearing
25 or other method of administrative review, the record upon
26 judicial review of such decision shall be limited to the

1 application for rehearing or other review and the order or
2 decision denying such application and shall not include the
3 record of proceedings had before the rendering of the
4 administrative decision as to which the application for
5 rehearing or other administrative review shall have been filed
6 unless the suit for judicial review is commenced within the
7 time in which it would be authorized by this Act to have been
8 commenced if no application for rehearing or other method of
9 administrative review had been filed. On the other hand, if the
10 rehearing or other administrative review is granted by the
11 administrative agency, then the record on judicial review of
12 the resulting administrative decision rendered pursuant to the
13 rehearing or other administrative review may consist not only
14 of the record of proceedings had before the administrative
15 agency in such rehearing or other administrative review
16 proceeding, but also of the record of proceedings had before
17 such administrative agency prior to its rendering of the
18 administrative decision as to which the rehearing or other
19 administrative review shall have been granted. The term
20 "administrative decision" or "decision" does not mean or
21 include rules, regulations, standards, or statements of policy
22 of general application issued by an administrative agency to
23 implement, interpret, or make specific the legislation
24 enforced or administered by it unless such a rule, regulation,
25 standard or statement of policy is involved in a proceeding
26 before the agency and its applicability or validity is in issue

1 in such proceeding, nor does it mean or include regulations
2 concerning the internal management of the agency not affecting
3 private rights or interests.

4 (Source: P.A. 92-651, eff. 7-11-02.)

5 (735 ILCS 5/3-101.5 new)

6 Sec. 3-101.5. Right to judicial review. Administrative
7 decisions made reviewable by statute and final administrative
8 decisions for which there is no other adequate remedy in a
9 court are subject to judicial review. A person suffering legal
10 wrong because of an administrative decision, or adversely
11 affected or aggrieved by an administrative decision, is
12 entitled to judicial review of the administrative decision.

13 (735 ILCS 5/3-102) (from Ch. 110, par. 3-102)

14 Sec. 3-102. Scope of Article. This Article III shall apply
15 to and govern every action to review judicially a final
16 decision of any administrative agency unless the action is
17 governed by the procedures or provisions of another statute
18 ~~where the Act creating or conferring power on such agency, by~~
19 ~~express reference, adopts the provisions of this Article III or~~
20 ~~its predecessor, the Administrative Review Act.~~ This Article
21 shall be known as the "Administrative Review Law". ~~In all such~~
22 ~~eases, any other statutory, equitable or common law mode of~~
23 ~~review of decisions of administrative agencies heretofore~~
24 ~~available shall not hereafter be employed.~~

1 Unless review is sought of an administrative decision
2 within the time and in the manner herein provided, ~~the parties~~
3 ~~to the proceeding before the administrative agency shall be~~
4 ~~barred from obtaining~~ judicial review of such administrative
5 decision is barred. In an action to review any final decision
6 of any administrative agency brought under this Article III, if
7 a judgment is reversed or entered against the plaintiff, or the
8 action is voluntarily dismissed by the plaintiff, or the action
9 is dismissed for want of prosecution, or the action is
10 dismissed by a United States District Court for lack of
11 jurisdiction, neither the plaintiff nor his or her heirs,
12 executors, or administrators may commence a new action within
13 one year or within the remaining period of limitation,
14 whichever is greater. All proceedings in the court for revision
15 of such final decision shall terminate upon the date of the
16 entry of any Order under either Section 2-1009 or Section
17 13-217. Such Order shall cause the final administrative
18 decision of any administrative agency to become immediately
19 enforceable. If under the terms of the Act governing the
20 procedure before an administrative agency an administrative
21 decision has become final because of the failure to file any
22 document in the nature of objections, protests, petition for
23 hearing or application for administrative review within the
24 time allowed by such Act, such decision shall not be subject to
25 judicial review hereunder excepting only for the purpose of
26 questioning the jurisdiction of the administrative agency over

1 the person or subject matter.

2 (Source: P.A. 99-642, eff. 7-28-16.)

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

4 Sec. 3-103. Commencement of action. Every action to review
5 a final administrative decision shall be commenced by the
6 filing of a complaint and the issuance of summons within 60 ~~35~~
7 days from the date that a copy of the decision sought to be
8 reviewed was served upon the party affected by the decision and
9 any person who requested notice of the decision, except that in
10 municipalities with a population of 500,000 or less a complaint
11 filed within the time limit established by this Section may be
12 subsequently amended to add a police chief or a fire chief in
13 cases brought under the Illinois Municipal Code's provisions
14 providing for the discipline of fire fighters and police
15 officers.

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

25 The form of the summons and the issuance of alias summons

1 shall be according to rules of the Supreme Court.

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

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

10 (Source: P.A. 95-831, eff. 8-14-08.)

11 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

12 Sec. 3-107. Defendants.

13 (a) Except as provided in subsection (b) or (c), in any
14 action to review any final decision of an administrative
15 agency, the administrative agency and any ~~all persons, other~~
16 ~~than the plaintiff, who were~~ parties of record who are not
17 plaintiffs to the proceedings before the administrative agency
18 shall be made defendants. The method of service of the decision
19 shall be as provided in the Act governing the procedure before
20 the administrative agency, but if no method is provided, a
21 decision shall be deemed to have been served either when a copy
22 of the decision is personally delivered or when a copy of the
23 decision is deposited in the United States mail, in a sealed
24 envelope or package, with postage prepaid, addressed to the
25 party affected by the decision at his or her last known

1 residence or place of business. The form of the summons and the
2 issuance of alias summons shall be according to rules of the
3 Supreme Court.

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

24 If, during the course of a review action, the court
25 determines that an agency or a party of record to the
26 administrative proceedings was not made a defendant as required

1 by the preceding paragraph, then the court shall grant the
2 plaintiff 35 days from the date of the determination in which
3 to name and serve the unnamed agency or party as a defendant.
4 The court shall permit the newly served defendant to
5 participate in the proceedings to the extent the interests of
6 justice may require.

7 (b) With respect to actions to review decisions of a zoning
8 board of appeals under Division 13 of Article 11 of the
9 Illinois Municipal Code, "parties of record" means only the
10 zoning board of appeals and applicants before the zoning board
11 of appeals. The plaintiff shall send a notice of filing of the
12 action by certified mail to each other person who appeared
13 before and submitted oral testimony or written statements to
14 the zoning board of appeals with respect to the decision
15 appealed from. The notice shall be mailed within 2 days of the
16 filing of the action. The notice shall state the caption of the
17 action, the court in which the action is filed, and the names
18 of the plaintiff in the action and the applicant to the zoning
19 board of appeals. The notice shall inform the person of his or
20 her right to intervene. Each person who appeared before and
21 submitted oral testimony or written statements to the zoning
22 board of appeals with respect to the decision appealed from
23 shall have a right to intervene as a defendant in the action
24 upon application made to the court within 30 days of the
25 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 zoning
5 board of appeals. The plaintiff shall send a notice of filing
6 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 1,
22 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 ~~this amendatory Act of the 100th General~~

1 ~~Assembly~~ apply to all actions filed on or after August 18, 2017
2 (the effective date of Public Act 100-212) ~~this amendatory Act~~
3 ~~of the 100th General Assembly.~~

4 (Source: P.A. 100-83, eff. 1-1-18; 100-212, eff. 8-18-17;
5 revised 10-6-17.)

6 (735 ILCS 5/3-110) (from Ch. 110, par. 3-110)

7 Sec. 3-110. Scope of review. Every action to review any
8 final administrative decision shall be heard and determined by
9 the court with all convenient speed. The hearing and
10 determination shall extend to all questions of law and fact
11 presented by the entire record before the court. No new or
12 additional evidence regarding the merits of ~~in support of or in~~
13 ~~opposition to~~ any finding, order, determination or decision of
14 the administrative agency shall be heard by the court. ~~The~~
15 ~~findings and conclusions of the administrative agency on~~
16 ~~questions of fact shall be held to be prima facie true and~~
17 ~~correct.~~

18 (Source: P.A. 88-1.)

19 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

20 Sec. 3-111. Powers of circuit court.

21 (a) The Circuit Court has power:

22 (1) with or without requiring bond (except if otherwise
23 provided in the particular statute under authority of which
24 the administrative decision was entered), and before or

1 after answer filed, upon notice to the agency and good
2 cause shown, to stay the decision of the administrative
3 agency in whole or in part pending the final disposition of
4 the case. For the purpose of this subsection, "good cause"
5 requires the applicant to show (i) that an immediate stay
6 is required in order to preserve the status quo without
7 endangering the public, (ii) that it is not contrary to
8 public policy, and (iii) that there exists a reasonable
9 likelihood of success on the merits;

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

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

15 (4) to dismiss parties, to correct misnomers,
16 including any erroneous identification of the
17 administrative agency that was made in good faith, to
18 realign parties, or to join agencies or parties;

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

21 (5.3) to hold unlawful and set aside administrative
22 decisions found to be:

23 (A) arbitrary, capricious, an abuse of discretion,
24 or otherwise not in accordance with law;

25 (B) contrary to constitutional right, power,
26 privilege, or immunity;

1 (C) in excess of statutory jurisdiction,
2 authority, or limitations, or short of statutory
3 right;

4 (D) without observance of procedure required by
5 law; or

6 (E) unsupported by substantial evidence;

7 (5.5) to compel agency action unlawfully withheld or
8 unreasonably delayed;

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

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

26 (8) in case of affirmance or partial affirmance of an

1 administrative decision which requires the payment of
2 money, to enter judgment for the amount justified by the
3 record and for costs, which judgment may be enforced as
4 other judgments for the recovery of money;

5 (9) when the particular statute under authority of
6 which the administrative decision was entered requires the
7 plaintiff to file a satisfactory bond and provides for the
8 dismissal of the action for the plaintiff's failure to
9 comply with this requirement unless the court is authorized
10 by the particular statute to enter, and does enter, an
11 order imposing a lien upon the plaintiff's property, to
12 take such proofs and to enter such orders as may be
13 appropriate to carry out the provisions of the particular
14 statute. However, the court shall not approve the bond, nor
15 enter an order for the lien, in any amount which is less
16 than that prescribed by the particular statute under
17 authority of which the administrative decision was entered
18 if the statute provides what the minimum amount of the bond
19 or lien shall be or provides how said minimum amount shall
20 be determined. No such bond shall be approved by the court
21 without notice to, and an opportunity to be heard thereon
22 by, the administrative agency affected. The lien, created
23 by the entry of a court order in lieu of a bond, shall not
24 apply to property exempted from the lien by the particular
25 statute under authority of which the administrative
26 decision was entered. The lien shall not be effective

1 against real property whose title is registered under the
2 provisions of the Registered Titles (Torrens) Act until the
3 provisions of Section 85 of that Act are complied with.

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

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

14 (d) The changes to this Section made by Public Act 95-831
15 apply to all actions filed on or after August 21, 2007 (the
16 effective date of Public Act 95-831). The changes made by this
17 amendatory Act of the 100th General Assembly apply to all
18 actions filed on or after the effective date of this amendatory
19 Act of the 100th General Assembly.

20 (Source: P.A. 100-212, eff. 8-18-17.)

21 (735 ILCS 5/3-113)

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

24 (a) Unless another time is provided specifically by the law
25 authorizing the review, an action for direct review of a final

1 administrative decision of an administrative agency by the
2 appellate court shall be commenced by the filing of a petition
3 for review in the appellate court within 35 days from the date
4 that a copy of the decision sought to be reviewed was served
5 upon the party affected by the decision. The method of service
6 of the decision shall be as provided in the Act governing the
7 procedure before the administrative agency, but if no method is
8 provided, a decision shall be deemed to have been served either
9 when a copy of the decision is personally delivered or when a
10 copy of the decision is deposited in the United States mail, in
11 a sealed envelope or package, with postage prepaid, addressed
12 to the party affected by the decision at his or her last known
13 residence or place of business.

14 (b) The petition for review shall be filed in the appellate
15 court and shall specify the persons ~~parties~~ seeking review and
16 shall designate the respondent and the order or part thereof to
17 be reviewed. The administrative agency and all ~~persons, other~~
18 ~~than the petitioner, who were parties of record to the~~
19 ~~proceedings before the administrative agency~~ shall be made
20 respondents, unless the party of record is the plaintiff. The
21 method of service of the decision shall be as provided in the
22 Act governing the procedure before the administrative agency,
23 but if no method is provided, a decision shall be deemed to
24 have been served either when a copy of the decision is
25 personally delivered or when a copy of the decision is
26 deposited in the United States mail, in a sealed envelope or

1 package, with postage prepaid, addressed to the party affected
2 by the decision at his or her last known residence or place of
3 business. The form of the summons and the issuance of alias
4 summons shall be according to rules of the Supreme Court.

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

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

18 (Source: P.A. 95-831, eff. 8-14-08.)

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