

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 Illinois Administrative Procedure Act is
5 amended by changing Section 10-50 as follows:

6 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)

7 Sec. 10-50. Decisions and orders.

8 (a) A final decision or order adverse to a party (other
9 than the agency) in a contested case shall be in writing or
10 stated in the record. A final decision shall include findings
11 of fact and conclusions of law, separately stated. Findings of
12 fact, if set forth in statutory language, shall be accompanied
13 by a concise and explicit statement of the underlying facts
14 supporting the findings. If, in accordance with agency rules, a
15 party submitted proposed findings of fact, the decision shall
16 include a ruling upon each proposed finding. Parties or their
17 agents appointed to receive service of process shall be
18 notified either personally or by registered or certified mail
19 of any decision or order. Upon request a copy of the decision
20 or order shall be delivered or mailed forthwith to each party
21 and to his attorney of record.

22 (b) All agency orders shall specify whether they are final
23 and subject to the Administrative Review Law. Every final order

1 shall contain a list of all parties of record to the case
2 including the name and address of the agency or officer
3 entering the order and the addresses of each party as known to
4 the agency where the parties may be served with pleadings,
5 notices, or service of process for any review or further
6 proceedings. Every final order shall also state whether the
7 rules of the agency require any motion or request for
8 reconsideration and cite the rule for the requirement. The
9 changes made by this amendatory Act of the 100th General
10 Assembly apply to all actions filed under the Administrative
11 Review Law on or after the effective date of this amendatory
12 Act of the 100th General Assembly.

13 (c) A decision by any agency in a contested case under this
14 Act shall be void unless the proceedings are conducted in
15 compliance with the provisions of this Act relating to
16 contested cases, except to the extent those provisions are
17 waived under Section 10-70 and except to the extent the agency
18 has adopted its own rules for contested cases as authorized in
19 Section 1-5.

20 (Source: P.A. 92-16, eff. 6-28-01.)

21 Section 10. The Code of Civil Procedure is amended by
22 changing Sections 3-107 and 3-111 as follows:

23 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

24 Sec. 3-107. Defendants.

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

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

1 government entity, ~~has been named as a defendant as provided in~~
2 ~~this Section~~. Naming the director or agency head, in his or her
3 official capacity, shall be deemed to include as defendant the
4 administrative agency, board, committee, or government entity
5 that the named defendants direct or head. No action for
6 administrative review shall be dismissed for lack of
7 jurisdiction based upon the failure to name an administrative
8 agency, board, committee, or government entity, where the
9 director or agency head, in his or her official capacity, has
10 been named as a defendant as provided in this Section.

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

20 (b) With respect to actions to review decisions of a zoning
21 board of appeals in a municipality with a population of 500,000
22 or more inhabitants under Division 13 of Article 11 of the
23 Illinois Municipal Code, "parties of record" means only the
24 zoning board of appeals and applicants before the zoning board
25 of appeals. The plaintiff shall send a notice of filing of the
26 action by certified mail to each other person who appeared

1 before and submitted oral testimony or written statements to
2 the zoning board of appeals with respect to the decision
3 appealed from. The notice shall be mailed within 2 days of the
4 filing of the action. The notice shall state the caption of the
5 action, the court in which the action is filed, and the names
6 of the plaintiff in the action and the applicant to the zoning
7 board of appeals. The notice shall inform the person of his or
8 her right to intervene. Each person who appeared before and
9 submitted oral testimony or written statements to the zoning
10 board of appeals with respect to the decision appealed from
11 shall have a right to intervene as a defendant in the action
12 upon application made to the court within 30 days of the
13 mailing of the notice.

14 (c) With respect to actions to review decisions of a
15 hearing officer or a county zoning board of appeals under
16 Division 5-12 of Article 5 of the Counties Code, "parties of
17 record" means only the hearing officer or the zoning board of
18 appeals and applicants before the hearing officer or the zoning
19 board of appeals. The plaintiff shall send a notice of filing
20 of the action by certified mail to each other person who
21 appeared before and submitted oral testimony or written
22 statements to the hearing officer or the zoning board of
23 appeals with respect to the decision appealed from. The notice
24 shall be mailed within 2 days of the filing of the action. The
25 notice shall state the caption of the action, the court in
26 which the action is filed, and the name of the plaintiff in the

1 action and the applicant to the hearing officer or the zoning
2 board of appeals. The notice shall inform the person of his or
3 her right to intervene. Each person who appeared before and
4 submitted oral testimony or written statements to the hearing
5 officer or the zoning board of appeals with respect to the
6 decision appealed from shall have a right to intervene as a
7 defendant in the action upon application made to the court
8 within 30 days of the mailing of the notice. This subsection
9 (c) applies to zoning proceedings commenced on or after July 1,
10 2007 (the effective date of Public Act 95-321) ~~this amendatory~~
11 ~~Act of the 95th General Assembly.~~

12 (d) The changes to this Section made by Public Act
13 95-831~~this amendatory Act of the 95th General Assembly~~ apply to
14 all actions filed on or after August 21, 2007 (the effective
15 date of Public Act 95-831) ~~this amendatory Act of the 95th~~
16 ~~General Assembly.~~ The changes made by this amendatory Act of
17 the 100th General Assembly apply to all actions filed on or
18 after the effective date of this amendatory Act of the 100th
19 General Assembly.

20 (Source: P.A. 95-321, eff. 8-21-07; 95-831, eff. 8-14-08.)

21 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

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

23 (a) The Circuit Court has power:

24 (1) with or without requiring bond (except if otherwise
25 provided in the particular statute under authority of which

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

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

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

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

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

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

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

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

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

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

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

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

26 (d) The changes to this Section made by Public Act 95-831

1 ~~this amendatory Act of the 95th General Assembly~~ apply to all
2 actions filed on or after August 21, 2007 (the effective date
3 of Public Act 95-831) ~~this amendatory Act of the 95th General~~
4 ~~Assembly.~~ The changes made by this amendatory Act of the 100th
5 General Assembly apply to all actions filed on or after the
6 effective date of this amendatory Act of the 100th General
7 Assembly.

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

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