

1 AN ACT concerning administrative review.

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 3-103, 3-105, 3-107, 3-111, and 3-113 as
6 follows:

7 (735 ILCS 5/3-103) (from Ch. 110, par. 3-103)

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

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

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

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

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

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

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

26 The changes to this Section made by this amendatory Act of

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

4 (Source: P.A. 88-1; 88-110; 88-670, eff. 12-2-94; 89-685, eff.
5 6-1-97.)

6 (735 ILCS 5/3-105) (from Ch. 110, par. 3-105)

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

1 business. The form of the summons and the issuance of alias
2 summons shall be according to rules of the Supreme Court. No
3 action for administrative review shall be dismissed for lack of
4 jurisdiction based upon the failure to serve summons on an
5 employee, agent, or member of an administrative agency, board,
6 committee, or government entity, acting in his or her official
7 capacity, where the administrative agency, board, committee,
8 or government entity has been served as provided in this
9 Section. Service on the director or agency head, in his or her
10 official capacity, shall be deemed service on the
11 administrative agency, board, committee, or government entity.
12 No action for administrative review shall be dismissed for lack
13 of jurisdiction based upon the failure to serve summons on an
14 administrative agency, board, committee, or government entity,
15 acting, where the director or agency head, in his or her
16 official capacity, has been served as provided in this Section.
17 Service on the administrative agency shall be made by the clerk
18 of the court by sending a copy of the summons addressed to the
19 agency at its main office in the State. The clerk of the court
20 shall also mail a copy of the summons to each of the other
21 defendants, addressed to the last known place of residence or
22 principal place of business of each such defendant. The
23 plaintiff shall, by affidavit filed with the complaint,
24 designate the last known address of each defendant upon whom
25 service shall be made. The certificate of the clerk of the
26 court that he or she has served such summons in pursuance of

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

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

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

7 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

8 Sec. 3-107. Defendants.

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

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

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

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

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

1 or more inhabitants under Division 13 of Article 11 of the
2 Illinois Municipal Code, "parties of record" means only the
3 zoning board of appeals and applicants before the zoning board
4 of appeals. The plaintiff shall send a notice of filing of the
5 action by certified mail to each other person who appeared
6 before and submitted oral testimony or written statements to
7 the zoning board of appeals with respect to the decision
8 appealed from. The notice shall be mailed within 2 days of the
9 filing of the action. The notice shall state the caption of the
10 action, the court in which the action is filed, and the names
11 of the plaintiff in the action and the applicant to the zoning
12 board of appeals. The notice shall inform the person of his or
13 her right to intervene. Each person who appeared before and
14 submitted oral testimony or written statements to the zoning
15 board of appeals with respect to the decision appealed from
16 shall have a right to intervene as a defendant in the action
17 upon application made to the court within 30 days of the
18 mailing of the notice.

19 (c) With respect to actions to review decisions of a
20 hearing officer or a county zoning board of appeals under
21 Division 5-12 of Article 5 of the Counties Code, "parties of
22 record" means only the hearing officer or the zoning board of
23 appeals and applicants before the hearing officer or the zoning
24 board of appeals. The plaintiff shall send a notice of filing
25 of the action by certified mail to each other person who
26 appeared before and submitted oral testimony or written

1 statements to the hearing officer or the zoning board of
2 appeals with respect to the decision appealed from. The notice
3 shall be mailed within 2 days of the filing of the action. The
4 notice shall state the caption of the action, the court in
5 which the action is filed, and the name of the plaintiff in the
6 action and the applicant to the hearing officer or 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 hearing
10 officer or the zoning board of appeals with respect to the
11 decision appealed from shall have a right to intervene as a
12 defendant in the action upon application made to the court
13 within 30 days of the mailing of the notice. This subsection
14 (c) applies to zoning proceedings commenced on or after the
15 effective date of this amendatory Act of the 95th General
16 Assembly.

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

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

22 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

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

24 (a) The Circuit Court has power:

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

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

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

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

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

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 this amendatory Act

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

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

5 (735 ILCS 5/3-113)

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

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

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

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

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

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

1 General Assembly.

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

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