

AN ACT concerning local government.

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

Section 5. The Counties Code is amended by changing Sections 5-43010, 5-43015, 5-43020, 5-43025, 5-43035, 5-43040, and 5-43045 as follows:

(55 ILCS 5/5-43010)

Sec. 5-43010. Administrative adjudication of ~~county~~ code and ordinance violations; definitions.

(a) Any county may provide by ordinance for a system of administrative adjudication of county code violations to the extent permitted by the Illinois Constitution.

(b) Any county may provide by ordinance for a system of administrative adjudication of violations of ordinances enacted by a participating unit of local government only where:

(i) the unit of local government is engaging in governmental activities or providing services within the boundaries of the county; (ii) the unit of local government has no system of administrative adjudication; and (iii) the violation occurred within the boundaries of the county.

(c) As used in this Division:

"Participating unit of local government" means a unit of local government which has entered into an intergovernmental

agreement or contract with a county for the administrative adjudication of violations of its ordinances by the county pursuant to this Division.

"System A—"system of administrative adjudication" means the adjudication of any violation of a county ordinance or of a participating unit of local government's ordinance, except for (i) proceedings not within the statutory or the home rule authority of counties or a participating unit of local government; and (ii) any offense under the Illinois Vehicle Code (or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code).

"Unit of local government" has the meaning as defined in the Illinois Constitution of 1970 and also includes a not-for-profit corporation organized for the purpose of conducting public business including, but not limited to, the Northeast Illinois Regional Commuter Railroad Corporation.

(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43015)

Sec. 5-43015. Administrative adjudication procedures not exclusive. The adoption by a county of a system of administrative adjudication does not preclude the county from using other methods to enforce county ordinances. An intergovernmental agreement or contract entered into between a

county and participating unit of local government under this Division does not preclude a participating unit of local government from using other methods to enforce its ordinances.

(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43020)

Sec. 5-43020. Code hearing units; powers of hearing officers.

(a) An ordinance establishing a system of administrative adjudication, pursuant to this Division, shall provide for a code hearing unit within an existing agency or as a separate agency in the county government. The ordinance shall establish the jurisdiction of a code hearing unit that is consistent with this Division. The "jurisdiction" of a code hearing unit refers to the particular code violations that it may adjudicate.

(b) Adjudicatory hearings shall be presided over by hearing officers. The powers and duties of a hearing officer shall include:

(1) hearing testimony and accepting evidence that is relevant to the existence of the code violation;

(2) issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;

(3) preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;

(4) issuing a determination, based on the evidence presented at the hearing, of whether a code violation exists, which shall be in writing and shall include a written finding of fact, decision, and order including the fine, penalty, or action with which the defendant must comply; and

(5) imposing penalties consistent with applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have authority to: (i) impose a penalty of incarceration; or (ii) impose a fine in excess of \$50,000, or at the option of the county for a fine imposed for a violation of a county ordinance or at the option of a participating unit of local government for a fine imposed for violation of an ordinance of the participating unit of local government, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit in which the county is located. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the county's ordinances or participating unit of local government's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the county or

participating unit of local government.

(c) Prior to conducting administrative adjudication proceedings, administrative hearing officers shall have successfully completed a formal training program that includes the following:

(1) instruction on the rules of procedure of the administrative hearings that they will conduct;

(2) orientation to each subject area of the code violations that they will adjudicate;

(3) observation of administrative hearings; and

(4) participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, every administrative hearing officer must be an attorney licensed to practice law in the State of Illinois for at least 3 years.

(d) A proceeding before a code hearing unit shall be instituted upon the filing of a written pleading by an authorized official of the county or participating unit of local government.

(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43025)

Sec. 5-43025. Administrative hearing proceedings.

(a) Any ordinance establishing a system of administrative adjudication, pursuant to this Division, shall afford parties due process of law, including notice and opportunity for

hearing. Parties shall be served with process in a manner reasonably calculated to give them actual notice, including, as appropriate, personal service of process upon a party or its employees or agents; service by mail at a party's address; or notice that is posted upon the property where the violation is found when the party is the owner or manager of the property. In counties with a population under 3,000,000, if the notice requires the respondent to answer within a certain amount of time, the county or participating unit of local government must reply to the answer within the same amount of time afforded to the respondent.

(b) Parties shall be given notice of an adjudicatory hearing that includes the type and nature of the code violation to be adjudicated, the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.

(c) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine opposing witnesses. Parties may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant shall have at least 15 days after

service of process to prepare for a hearing. For purposes of this subsection (c), "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by mail, the 15-day period shall begin to run on the day that the notice is deposited in the mail.

(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43035)

Sec. 5-43035. Enforcement of judgment.

(a) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, and may be collected in accordance with applicable law.

(b) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(c) In any case in which a defendant has failed to comply

with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a hearing officer, shall be a debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, and may be collected in accordance with applicable law. Prior to any expenses being fixed by a hearing officer pursuant to this subsection (c), the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative hearing officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for the hearing, which shall not be less than 7 days after the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

(c-5) A default in the payment of a fine or penalty or any installment of a fine or penalty may be collected by any means authorized for the collection of monetary judgments. The state's attorney of the county in which the fine or penalty was imposed may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine or penalty or installment of that fine or penalty. Any fees or costs incurred by the county or participating unit of local government with respect to attorneys or private collection agents retained by the state's attorney under this Section shall be charged to the offender.

(d) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(e) A hearing officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the

petitioner establishes that the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, did not provide proper service of process. If any judgment is set aside pursuant to this subsection (e), the hearing officer shall have authority to enter an order extinguishing any lien that has been recorded for any debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, as a result of the vacated default judgment.

(Source: P.A. 99-18, eff. 1-1-16.)

(55 ILCS 5/5-43040)

Sec. 5-43040. Impact on existing administrative adjudication systems. This Division does not affect the validity of systems of administrative adjudication that were authorized by State law, including home rule authority, and in existence before July 29, 2010 (the effective date of Public Act 96-1386) ~~this amendatory Act of the 96th General Assembly.~~

(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43045)

Sec. 5-43045. Impact on home rule authority. This Division does not preempt counties or participating units of local government from adopting other systems of administrative

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adjudication pursuant to their home rule powers.

(Source: P.A. 96-1386, eff. 7-29-10.)