

353.700 Review of order of department by civil action -- Appeal.

- (1) Any person aggrieved by any order issued by the department or by the commission under KRS 353.500 to 353.720 shall have the right to bring a civil action for review of the order by filing a complaint in the Circuit Court of the county in which the premises or any portion thereof affected by the order is located, or in the Franklin Circuit Court.
- (2) The suit shall be brought within thirty (30) days after the order is issued, and in event no suit is filed within the thirty (30) day period, the order shall be final.
- (3) In the suit the burden of proof shall be upon the party complaining of the order, and the order shall be deemed prima facie valid. Any party to the suit may offer in evidence all or any part of the record of the hearing which resulted in the order, and any other relevant evidence.
- (4) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the commission, unless the court upon motion and for good cause shown determines that the interests of justice will be better served by the introduction of new evidence. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: whether or not the commission acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity to the provisions of KRS Chapter 353; the order is clearly erroneous on the basis of reliable, probative and material evidence contained in the whole record; or the order is arbitrary, or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.
- (5) The practice, pleading and proceedings in the suit shall be in accordance with the Rules of Civil Procedure.
- (6) In the suit the court may stay the order until the court shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order or remanding the cause with directions to modify the order so that it shall conform to the provisions of KRS 353.500 to 353.720. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

History: Amended 1974 Ky. Acts ch. 45, sec. 7. -- Created 1960 Ky. Acts ch. 103, sec. 22, effective June 16, 1960.