

349.090 Civil actions to review orders issued by Coalbed Methane Well Review Board -- Procedure -- Jurisdiction of Circuit Court.

- (1) Any person aggrieved by any order issued by the review board under this chapter 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 is located as established by the order, or in Franklin Circuit Court.
- (2) The civil action shall be brought within thirty (30) days after the order is issued, and in the event no civil action is filed within the thirty (30) day period, the order shall be final.
- (3) In any civil action the burden of proof shall be upon the party challenging the order. The order shall be deemed prima facie valid. Any party to the civil action may offer evidence for any part of the record of the hearing which resulted in the order, and any other relevant evidence.
- (4) In any civil action no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the review board. New evidence may be introduced if, upon motion and for good cause shown, the court determines that the interest 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. The court shall dispose of the civil action in a summary manner, being limited to determining whether or not: the review board acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity with the provisions of this chapter; the order is clearly erroneous on the basis of reliable, probative, and material evidence contained in the whole record; the order is arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion. The court shall enter its findings in the order book as a judgment of the court, and the judgment shall have the effect and be enforceable the same as any other judgment of the court in civil cases.
- (5) The practice, pleading, and proceedings in the civil action shall be in accordance with the Rules of Civil Procedure.
- (6) During the pendency of the civil action, the court may stay the order until it shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order, or remand the cause with directions to modify the order to conform to the provisions of this chapter. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 65, sec. 18, effective July 13, 2004.