

238.565 Appeals of administrative actions.

- (1) A license holder may appeal any administrative action taken under KRS 238.560. A license holder shall be notified in writing of any action to be taken against him or her. The notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. Service of notification of administrative action, whether by hand delivery or by certified mail, shall be deemed complete if the license holder fails or refuses to accept delivery. For service by hand delivery, notification shall be deemed received upon acceptance of delivery or upon failure or refusal to accept delivery, and the person affecting service on behalf of the office shall record the fact of the failure or refusal. For service by certified mail, the notification of administrative action shall be deemed received when the license holder accepts delivery or fails or refuses to accept delivery at the last known address. The notification shall specify the charges against the license holder, specify the proposed administrative sanction, and advise the license holder of the right to appeal the decision within ten (10) days of the date of receipt of the notification.
- (2)
 - (a) Upon receipt of an appeal, the corporation shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
 - (b) Following a notice of violation and appeal, a person may apply to the corporation for a stay of the ruling, pending action on an appeal by the corporation.
 - (c) An application for a stay shall be received by the president or his or her designee within ten (10) calendar days of the issuance of the notice of violation.
 - (d) An application for a stay shall be in writing and include the following:
 1. The name, address, telephone number, and signature of the person requesting the stay;
 2. A statement of the justification for the stay; and
 3. The period of time for which the stay is requested.
 - (e) On a finding of good cause, the president or his or her designee may grant the stay. The president or his or her designee shall issue a written decision granting or denying the request for stay within five (5) calendar days from the time the application for stay is received by the president or his or her designee. If the president or his or her designee fails to timely issue a written decision, then the stay is deemed granted. The president or his or her designee may rescind a stay granted under this subsection for good cause.
 - (f) A person who is denied a stay by the president or his or her designee, or has a previously granted stay rescinded under paragraph (e) of this subsection, may petition the corporation to overrule the president's or designee's denial or rescission of the stay. The petition shall be filed in writing with the chairperson of the board of directors of the corporation and received by the chairperson within ten (10) calendar days of the mailing of the president's or designee's denial of the stay. The petition shall state the name, address, phone

number, and signature of the petitioner; a statement of justification of the stay; and the time period for which the stay is requested. The chairperson shall convene a special meeting of the board of directors of the corporation within ten (10) calendar days of receipt of the petition, and the corporation shall issue a written final order granting or denying the petition within two (2) calendar days of the special meeting. If the corporation fails to timely issue a final order on the petition, then the stay is granted. The corporation may rescind a stay granted under this subsection for good cause.

- (g) A person who is denied or has a previously granted stay rescinded by the corporation may file an appeal of the final written order of the corporation in the Circuit Court of the county in which the cause of action arose.
 - (h) The fact that a stay is granted does not create a presumption that the notice of violation is invalid.
- (3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the corporation a recommended order based on findings of fact and conclusions of law. Within thirty (30) days of receipt of the recommended order, the corporation shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.
- (4) Pursuant to KRS 13B.120(7), the corporation shall automatically hear and issue a final order regarding any decision of the corporation that would otherwise be subject to appeal.
- (5) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of a summary suspension. The corporation may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.
- (6) (a) A summary suspension, notice, or order to cease operations shall only be issued by the corporation if there is an imminent risk to the health and safety of the public or of the misappropriation of charitable gaming revenues.
- (b) 1. A license holder may first appeal a summary suspension under paragraph (a) of this subsection to the corporation.
2. Upon receipt of an appeal, the corporation shall issue a decision to the license holder within twenty (20) days.
3. a. If the license holder receives a determination from the corporation that the ceasing of operations stands, the license holder may appeal again to the corporation; and
- b. Upon receipt of the second appeal, the corporation shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
- (7) This chapter shall not prohibit the corporation from temporarily suspending operations of an individual electronic gaming device in the event of a technical

breach or temporary emergency.

- (8) A final order of the corporation may be appealed to the Circuit Court of the county where the appellant works or resides in accordance with KRS Chapter 13B. If the license holder against whom administrative action is proposed does not request an appeal of the action, the corporation shall enter a final order imposing the proposed administrative action.

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History: Amended 2026 Ky. Acts ch. 184, sec. 34, effective July 15, 2026. -- Amended 2025 Ky. Acts ch. 124, sec. 30, effective July 1, 2025. -- Amended 2024 Ky. Acts ch. 171, sec. 27, effective July 1, 2025. -- Amended 2010 Ky. Acts ch. 24, sec. 547, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 374, sec. 15, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 318, sec. 158, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 66, sec. 14, effective March 16, 1994.