

CHAPTER 3

SENATE BILL No. 324

AN ACT concerning the courts; relating to appellate jurisdiction; amending K.S.A. 60-2102 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 60-2102 is hereby amended to read as follows: 60-2102. (a) *As of right*. Except for any order or final decision of a district magistrate judge, the appellate jurisdiction of the court of appeals may be invoked by appeal as a matter of right from:

(1) An order that discharges, vacates or modifies a provisional remedy.

(2) An order that grants, continues, modifies, refuses or dissolves an injunction, or an order that grants or refuses relief in the form of mandamus, quo warranto or habeas corpus.

(3) An order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes thereof, such as directing sales or other disposal of property, or an order involving the tax or revenue laws, the title to real estate, the constitution of this state or the constitution, laws or treaties of the United States.

(4) A final decision in any action, except in an action where a direct appeal to the supreme court is required by law. In any appeal or cross appeal from a final decision, any act or ruling from the beginning of the proceedings shall be reviewable.

(b) *The appellate jurisdiction of the supreme court may be invoked by appeal as a matter of right from a preliminary or final decision in which a statute of this state has been held unconstitutional as a violation of Article 6 of the Kansas Constitution. Any appeal filed pursuant to this subsection shall be filed within 30 days of the date the preliminary or final decision is filed or within 30 days of the effective date of this act, whichever is later. The provisions of this subsection shall expire on July 1, 2006.*

(c) *Other appeals*. When a district judge, in making in a civil action an order not otherwise appealable under this section, is of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the judge shall so state in writing in such order. The court of appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of the order under such terms and conditions as the supreme court fixes by rule. Application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or an appellate court or a judge thereof so orders.

Sec. 2. K.S.A. 60-2102 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved February 27, 2004.

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