

§341. Remedy

Any person aggrieved by a final decision of the department made under the provisions of this Act is entitled to review in accordance with this chapter and with Title 5, chapter 375, subchapter VII. [PL 2001, c. 664, §2 (NEW).]

1. Finality. A decision of the department to issue a certificate of need or to deny an application for a certificate of need is not considered final until the department has taken final action on a request for reconsideration under section 340. A decision by the department is not final when opportunity for reconsideration exists with respect to matters involving new information or changes in circumstances pursuant to section 340, subsection 2, paragraphs A and B. [PL 2001, c. 664, §2 (NEW).]

2. Competitive reviews. If a person or persons file for review under Title 5, chapter 375, regarding competitive reviews of proposals to construct new nursing facility beds, the court shall require the party seeking judicial review to give security in such sums as the court determines proper for the payment of costs and damages that may be incurred or suffered by any other party who is found to have been wrongfully delayed or restrained from proceeding to implement the certificate of need, except that, for good cause shown and recited in the order, the court may waive the giving of security. A surety upon a bond or undertaking under this subsection submits the surety to the jurisdiction of the court and irrevocably appoints the clerk of the court as the agent for the surety upon whom any papers affecting liability on the bond or undertaking may be served. The liability of the surety may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall mail copies to the persons giving the security if their addresses are known. [PL 2001, c. 664, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 664, §2 (NEW).

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