§ 19-0511. Review by the courts.

1. Any final order or determination or other final action by the commissioner and the validity or reasonableness of any code, rule or regulation promulgated by the department pursuant to this article shall be subject to review as provided in article 78 of the Civil Practice Law and Rules.

2. When a review in accordance with article 78 of the Civil Practice Law and Rules is not maintainable, either because the person aggrieved was not a party to the original proceedings in which the order or determination or other action which is sought to be reviewed was made or taken, or for any other reason, the order or determination of the commissioner and the validity or reasonableness of any code, rule or regulation of the department promulgated pursuant to this article may nevertheless be reviewed as hereinafter provided:

a. Application for relief from any code, rule or regulation of the department or from any determination or order or other action which shall have been made or taken by the commissioner or by any person acting in the name of the department or commissioner shall be made by special proceeding. The petition shall be verified and shall set forth the code, rule or regulation or the determination or order or other action of the department or commissioner or the part thereof which the petitioner shall claim to be unreasonable or prejudicial to him and shall specify the grounds therefor. Such petition may be accompanied by affidavits or other written proof and shall demand the relief to which the petitioner alleges he is entitled, in the alternative or otherwise. Such petition may be made by any one or more persons jointly or severally who shall be aggrieved by any such code, rule or regulation or any such determination, order or act whether or not such petitioner is or was a party to the proceeding in which such code, rule or regulation was adopted by the department or in which such determination or order or action was made or taken by the commissioner.

b. A proceeding brought under the provisions of this subdivision must be instituted by service of the petition and notices of application for

relief within two months after the action of the department or commissioner which is sought to be reviewed shall become final and binding upon the petitioner or the person whom he represents either in law or in fact; or, with the permission of the supreme court granted within two years in case the petitioner or the person whom he represented at the time such action became final and binding upon the petitioner or such person was under the age of twenty-one years, or mentally ill, or imprisoned on a criminal charge, or had been sentenced for a term of less than life.

c. In all other respects the procedure prescribed in subdivision 1 of this section shall be applicable to a review provided for in this subdivision.