

particular situation constitutes a contested case depends on whether the complainant has a right to a hearing (see the Administrative Procedure Act definition of "contested case" in Art. 41, § 244). Under present Art. 83, § 159(b) — now § 11-415 of this subtitle — a licensee must be given an opportunity to be heard before the license may be suspended or revoked. There is no requirement of a hearing, however, before an application for a license may be denied. (See present Art. 83, § 157(b) — now § 11-407(c) of this subtitle.) A suspension or revocation proceeding under this subtitle thus would be a contested case under the Administrative Procedure Act; a denial of an application for a license apparently would not be a contested case. Present Art. 83, § 160, however, entitles an applicant to judicial review of a denial. Therefore, it is not clear whether the Administrative Procedure Act appeal procedures apply to the proceedings described in this section in whole, in part, or not at all.

The General Assembly may wish to consider amending subsection (c) of this section in light of Department of Natural Resources v. Linchester Sand and Gravel Corp., 274 Md. 211 (1975), in which the Court of Appeals held that — with certain exceptions not applicable to this subtitle — de novo judicial review of administrative actions, even actions that are "quasi-judicial", is an unconstitutional violation of the doctrine of separation of powers.

11-417. EFFECT OF SURRENDER, SUSPENSION, OR REVOCATION.

(A) OBLIGATIONS NOT IMPAIRED.

THE SURRENDER, SUSPENSION, OR REVOCATION OF A LICENSE DOES NOT IMPAIR OR AFFECT ANY OBLIGATION UNDER ANY AGREEMENT THAT THE LICENSEE ENTERED INTO OR ACQUIRED BEFORE THE LICENSE WAS SURRENDERED, SUSPENDED, OR REVOKED.

(B) FORMER LICENSEE REMAINS SUBJECT TO SUBTITLE.

IN ENFORCING AN AGREEMENT AND IN DEALING WITH THE PARTIES TO THAT AGREEMENT, A PERSON WHOSE LICENSE HAS BEEN SURRENDERED, SUSPENDED, OR REVOKED REMAINS SUBJECT TO THIS SUBTITLE, INCLUDING THE AUTHORITY OF THE COMMISSIONER TO EXAMINE AND INVESTIGATE UNDER § 11-413 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 83, § 159(e).

11-418. INCORRECT STATEMENTS PROHIBITED.