

articles to indicate the authority of an entity to exercise a power. In addition, the ability of a licensing body to suspend or revoke a license is generally expressed as a power, rather than a duty, under licensing schemes in other revised articles of the Code. Consequently, the former reference to the power of the Commission to "initiate an action against the officer" is deleted as included in the power of the Commission to suspend or revoke the certificate.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the introductory language in former Art. 41, § 4-201(d) refers to the "authority", "responsibility", and "duty" of the Commission. This language gives rise to the issue of whether former Art. 41, § 4-201(d)(7) establishes a power (*i.e.*, authority) or a duty (*i.e.*, responsibility). Subsection (a) of this section has been drafted to establish a power because "may" (which indicates a power) was used in former Art. 41, § 4-201(g)(1) with regard to the Commission initiating an action against a police officer if the Commission believed that grounds for suspension or revocation of certification existed. If the General Assembly wishes to make this power mandatory, the word "shall" should be substituted for the word "may".

The introductory language of subsection (b)(1) of this section, "[e]xcept as otherwise provided in Title 10, Subtitle 2 of the State Government Article," is added to clarify that the Commissioner may act summarily under certain circumstances. *See* SG § 10-226(c).

In subsection (b)(2) of this section, the specific reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former general reference to "the Administrative Procedure Act". Consequently, the former references to the "time and place of the hearing" and the "grounds for revocation and suspension of the certificate" are deleted as unnecessary. Similarly, in subsection (c) of this section, the specific references to "§§ 10-222 and 10-223 of the State Government Article" are substituted for the former general reference to the "Administrative Procedure Act".

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

### 3-213. RECALL OF CERTIFICATE.

THE COMMISSION MAY RECALL THE CERTIFICATE OF A POLICE OFFICER IF THE CERTIFICATION OF THE POLICE OFFICER IS SUSPENDED OR REVOKED FOR ANY OF THE FOLLOWING REASONS:

- (1) THE CERTIFICATE WAS ISSUED BY ADMINISTRATIVE ERROR;
- (2) THE CERTIFICATE WAS OBTAINED THROUGH MISREPRESENTATION OR FRAUD;
- (3) THE POLICE OFFICER HAS BEEN CONVICTED OF A FELONY; OR