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HOUSE BILL NO. 285

Offered January 13, 2016

Prefiled January 2, 2016

A BILL to amend and reenact § 28.2-618 of the Code of Virginia, relating to the navigation projects in certain oyster grounds.

Patrons—Stolle and Knight; Senator: Wagner

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-618 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-618. Commonwealth guarantees rights of renter subject to right of fishing.

The Commonwealth shall guarantee to any person who has complied with ground assignment requirements the absolute right to continue to use and occupy the ground for the term of the lease, subject to:

1. ~~Section~~ § 28.2-613;

2. Riparian rights;

3. The right of fishing in waters above the bottoms, provided *that* (i) ~~that~~ no person exercising the right of fishing shall use any device ~~which that~~ is fixed to the bottom, or ~~which that~~, in any way, interferes with the renter's rights or damages the bottoms, or the oysters planted thereon; and (ii) ~~that~~ crab pots and gill nets ~~which that~~ are not staked to the bottom shall not be considered devices ~~which that~~ are fixed to the bottom unless the crab pots and gill nets are used over planted oyster beds in waters of less than four feet at mean low water on the seaside of Northampton and Accomack Counties; ~~and~~

4. Established fishing stands, but only if the fishing stand license fee is timely received from the existing licensee of the fishing stand and no new applicant shall have priority over the oyster lease. However, a fishing stand location assigned prior to the lease of the oyster ground is a vested interest, a chattel real, and an inheritable right ~~which that~~ may be transferred or assigned whenever the current licensee complies with all existing laws; ~~and~~

5. *The right of navigation in the navigable waters of the Lynnhaven River and its creeks and tributaries, including dredging projects to improve, deepen, or restore existing navigation channels in those areas approved by the Commission, provided that (i) the person conducting the dredging designs the project to minimize the effects on active producing beds and (ii) to the extent that disturbance of any such beds cannot be avoided, the person conducting the dredging pays the costs of relocating the oyster material that would be disturbed or pays the holder of the lease for any loss of oysters that are in production in an amount to be determined by the Commission.*