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HOUSE BILL NO. 1796

Offered January 11, 2017

Prefiled January 9, 2017

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

 Patron—Stolle

 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 (i) that no person exercising the right of fishing shall use any device which is fixed to the bottom, or which, 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 are not staked to the bottom shall not be considered devices which 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 may be transferred or assigned whenever the current licensee complies with all existing laws; *and*

5. *The right of navigation in navigable waters located in the Lynnhaven River or its creeks and tributaries, including dredging projects to improve, deepen, or restore existing navigation channels in areas approved by the Commission. The person conducting the dredging shall design the project to minimize the effects on active, producing beds. To the extent that any such bed cannot be avoided, the person conducting the dredging shall either (i) relocate at its sole cost the oyster material that would be disturbed or (ii) if required by a condition in the permit issued by the Commission, pay the leaseholder for any loss of oysters in production in an amount to be determined by agreement of the parties. If the parties cannot agree on a compensation amount, a court of competent jurisdiction shall determine the value of the oysters as of the date they are first disturbed.*

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