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HOUSE BILL NO. 1949

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 28.2-601, 28.2-608, and 28.2-625 of the Code of Virginia, relating to oyster-planting grounds; fees.

Patron—Bloxom

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-601, 28.2-608, and 28.2-625 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-601. Riparian assignments; entitlements; obligations.

The riparian leaseholder shall have the exclusive right to the use of such ground for planting or gathering oysters and clams.

The assignment made pursuant to § 28.2-600 shall pass with the transfer of the adjacent highland to the subsequent owner of highland and cannot be held separated from the highland. A transfer of highland ownership shall require a transfer of the riparian assignment within ~~eighteen~~ 18 months after the transfer of the highland ownership under the following conditions:

1. The application for transfer shall be in the form prescribed by the Commission and shall be filed with the Commissioner.

2. The Commissioner shall require a new survey if there is not a survey of the exact parcel or parcels of grounds to be transferred.

3. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys of general oyster-planting ground.

4. The application shall be accompanied by a transfer fee of ~~five dollars~~ \$300.

5. The Commissioner shall return the approved application for transfer and plat with any correction to the applicant. A copy of the transfer and plat shall be recorded at the Commissioner's office.

6. If no application for transfer is received by the Commissioner within ~~eighteen~~ 18 months after the transfer of the highland ownership, the riparian assignment shall become vacant and open to assignment.

§ 28.2-608. Application and surveying fees.

Any applicant for general oyster-planting ground or for riparian oyster ground shall pay (i) an application fee of \$300 if the application is for less than ~~five~~ 10 acres, ~~\$500~~ \$400 if the application is for ~~five to 25~~ 10 acres, ~~and \$1,000 or more but less than 100 acres, or \$500 if the application is for 100 acres or more than 25 acres;~~ and (ii) the Commission's surveying costs, including the cost of the survey and of preparing the original and one copy of the plat. No ground shall be assigned until all the prescribed fees have been paid.

§ 28.2-625. Transfer or assignment.

A person holding an existing lease of oyster-planting ground may transfer or assign all or any part of the lease to another under the following conditions and provisions:

1. The transfer or assignment may be made only to a resident of the Commonwealth, or a firm or corporation authorized by Virginia laws to occupy and hold oyster-planting ground.

2. The application for transfer or assignment shall be in the form prescribed by the Commissioner and shall be filed with the Commission.

3. The Commissioner shall require a new survey if no survey exists of the exact parcel or parcels of grounds to be transferred or assigned.

4. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys made by the Commissioner.

5. The application shall be accompanied by the transfer fee of \$300 for each lease less than ~~five~~ 10 acres, ~~\$500~~ \$400 for each lease of ~~five to 25~~ 10 acres or more but less than 100 acres, and ~~\$1,000~~ \$500 for each lease ~~greater than 25 of 100 acres or more.~~

6. The Commissioner shall record in his office the application for transfer or assignment with any correction or new plat he deems necessary only if the Commissioner believes that the transfer or assignment is in the public interest after considering the factors in subsection A of § 28.2-1205 and the public benefits and impacts of shellfish aquaculture. No lease shall be transferred if the leaseholder has been denied renewal under § 28.2-613.

7. The transfer or assignment shall constitute a new lease of the tract or parcel assigned and any ground remaining under the old lease.

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