

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 365

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

[S 1143]

Approved March 13, 2017

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. *Municipal dredging projects located in the Lynnhaven River or its creeks and tributaries, including dredging projects to restore existing navigation channels in areas approved by the Commission. Such projects shall be limited to grounds that are condemned, restricted, or otherwise nonproductive. The locality shall compensate the lessee for the use of the ground, and if the parties cannot agree on a compensation amount, a court of competent jurisdiction shall determine the value of the ground as of the date it is first disturbed.*

2. That the provisions of this act shall expire on July 1, 2019.