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HOUSE BILL NO. 2385

House Amendments in [] — February 2, 1997

A BILL to amend and reenact § 28.2-613 of the Code of Virginia, relating to oyster planting grounds.

Patrons—Nelms and Spruill

Referred to Committee on Chesapeake and Its Tributaries

Be it enacted by the General Assembly of Virginia:**1. That § 28.2-613 of the Code of Virginia is amended and reenacted as follows:**

§ 28.2-613. Duration of lease.

Each assignment of general oyster-planting ground shall continue in force for ten years from the date of assignment, unless the assignment is terminated; however, assignments issued between July 1, 1976, and July 1, 1980, shall continue in force for twenty years from the date of assignment. The interest in such ground is chattel real.

Upon the death of the renter, testate as to the lease, it shall vest in the named beneficiary subject to the rights of creditors, if he is a resident of this Commonwealth, provided that he files an application for transfer with the Commission within eighteen months after the date of death. If the named beneficiary is not a resident he shall have eighteen months after the date of death to transfer the lease to a qualified holder.

Upon the death of the renter, intestate as to the lease, the lease shall vest in the personal representative, who shall transfer the lease to a qualified holder within eighteen months.

If there is no qualification on the renter's estate within one year of his death, the Commission may within six months thereafter transfer the lease to a qualified holder upon receipt of a transfer duly executed by all of the lawful heirs of the renter.

If there is no transfer under any of the above, the ground shall become vacant and open to assignment.

Upon expiration of the initial or any subsequent term of the assignment, the Commission shall, on application of the holder, renew the assignment for an additional ten-year term. The Commission shall not renew or extend an assignment where there has been no significant production of oysters or clams, no reasonable plantings of oysters, clams or cultch or no significant oyster or clam aquaculture operation, during any portion of the ten-year period immediately prior to the application for renewal, unless the Commission finds that there was good cause for the failure to produce or plant oysters, clams or cultch or finds that the assignment is directly related to and beneficial to the production of oyster-planting grounds immediately adjacent to the assignment. ~~[Good cause for failure to produce or plant oysters shall be deemed to exist until, in the judgment of the Commission, the diseases MSX and Dermo no longer prevail in the waters of the Commonwealth. In determining whether there was good cause for the failure to produce or plant oysters, clams, or cultch, in addition to other factors, the Commission shall consider the prevalence of the diseases MSX and Dermo, and whether the oyster-planting ground has traditionally produced commercial quantities of oysters or clams.]~~

ENGROSSED

HB2385E