

more than 60 days after it becomes due, the Department may declare the lease null and void IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION and the land shall revert to the State and may be leased again. The Department may cancel any lease, either in whole or in part, and may diminish or cancel the annual rental to an extent commensurate with the area remaining under lease on the written request of the lessee.

~~(2)~~ (3) The Department shall adopt regulations [that] AND CONDITION EACH LEASE TO require a leaseholder to actively utilize the leased area within any [5-year] 3-YEAR period commencing July 1, [1988] 1990, or the effective date of a lease after July 1, [1988] 1990. The Department may allow a longer period than [5] 3 years upon a showing that natural conditions, including unavailability of oyster shell or seed, prevented utilization.

~~(3)~~ (4) If a leaseholder fails to actively utilize leased bottom in accordance with regulations promulgated under paragraph (2) of this subsection, the leasehold shall revert to the State and may be leased again. A LEASEHOLDER SHALL MAINTAIN RECORDS DOCUMENTING ACTIVITIES WHICH SHOW THAT THE LEASE IS BEING USED FOR SHELLFISH PRODUCTION AS REQUIRED BY THE DEPARTMENT.

(d) A lease may not be invalidated in any way by facts determined in any resurvey under § 4-1102 of this title unless the lessee forfeits his lease voluntarily, fails to pay rental or other fees, or fails to actively utilize the lease areas within a period of [5] 3 years.

(E) (1) THE PROVISIONS OF TITLE 8 OF THE REAL PROPERTY ARTICLE DO NOT APPLY TO LEASES UNDER THIS SUBTITLE.

(2) UPON A DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY A LESSEE OF THE LESSEE'S OPPORTUNITY TO CONTEST THE DEPARTMENT'S ACTION IN A HEARING UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

4-11A-11.

(a) The lessee of any leased oyster bottom shall have exclusive ownership of and title to all the oysters planted by him or existing on the leasehold. [A landlord-tenant relationship shall exist between the State and lessee as long as the lease is effective. Both parties shall have all the rights and privileges of landlord and tenant as defined in the laws of Maryland,] LESSEES SHALL HAVE THE RIGHTS TO USE THEIR LEASE subject to the following conditions:

(1) Land leased under this subtitle shall be used only for the purpose of planting and cultivating oysters;

(2) [Residents of the State] PERSONS may fish on all leased oyster bottoms, if they do not remove or destroy oysters on the areas; and

(3) A person may not redeem or purchase any leased oyster bottom.