

occupant or occupants may have priority of claim; and if they shall fail to locate or appropriate the water mentioned in said notice within thirty days after receiving the same, then it shall be open and free to any one, under the provisions of this section; provided, also, that the said location or appropriation shall be described by stakes, bushes, and with the name of the owner on a board fastened to a pole or stake on or within the appropriated oyster land, or other proper and visible metes and bounds, which description shall be reduced to writing, under the oath of some competent surveyor, and recorded at the expense of the party locating or appropriating the same in the office of the clerk of the circuit court for the county wherein such land may be located; and provided, also, that such location and appropriation shall not injure, obstruct or impede the free navigation of said waters; and provided, that no natural bar or bed of oysters shall be so located or appropriated, and that twelve months' peaceable possession of all locations of oyster grounds, under the laws of this state, shall constitute a good and sufficient title thereto; but should any one within twelve months be charged with locating or appropriating any natural bed or bar hereinafore prohibited, the question may be at once submitted by any person interested to the judge of the circuit court for the county where such questions shall arise, who, after having given notice to the parties interested, shall proceed to hear the testimony and decide the case; and if his decision be in favor of the party locating said five acres, said decision shall be recorded with the original record of said five acres, and shall in all cases be conclusive evidence of title thereto; provided, also, that if any stakes or bushes used as bounds shall be removed by accident or design, it shall not excuse any person from wrongfully taking such oysters if he knew the grounds to have been located and appropriated; but any title or pretended title to more than five acres, or otherwise contrary to this section, held or claimed by any person is hereby declared to be fraudulent and void; provided, that no non-resident of this state shall be

Evidence of title.

Proviso.