

1906-1912 CHART OR UPON LOCATION OR RELOCATION UNDER ANY RESURVEY SUBSEQUENT THERETO.

708.

(c) Provisions for resurveys of State waters.—The Department of Tidewater Fisheries may, at any time hereafter, resurvey any of the submerged areas of this State for the purpose of determining the position and extent of any natural oyster bars, clam beds, or crab beds. If, upon such resurvey, the Department finds that natural oyster beds, clam beds, or crab beds be incorrectly located on existing charts, *or that the existing charts do not reflect the actual condition of the bottoms at the time of the resurvey*, the said Department of Tidewater Fisheries shall amend such charts or prepare new charts and shall cause to be marked or defined as accurately as possible thereon the correct location and bounds of all natural oyster bars, clam beds, crab beds, then existing in the area being surveyed. *A natural oyster OR NATURAL CLAM bar shall be construed to mean and include all oyster OR CLAM beds or bars under any of the waters of this State whereon the natural growth of oysters OR CLAMS is of such abundance that the public have resorted to such beds or bars for a livelihood, whether continuously or at intervals, within five years prior to the resurvey or provided that at the time of the resurvey there are oysters OR CLAMS to be found naturally and in sufficiently large quantities in such beds or bars to enable the public to use such bars or beds for a livelihood.* Within ninety days after such resurvey, a copy of such amended charts or new charts shall be deposited in the Department of Tidewater Fisheries and another copy sent to the clerk of the circuit court in which or nearest to which the area resurveyed is located. No lease shall be invalidated either in whole or in part by facts determined in such resurvey unless the lessee forfeit his lease voluntarily or by nonpayment of rental or other fees. *or by failure to use for the purpose for which the lease was granted.*

(d) Reclassification of area.—*[Before] If upon a resurvey the Department of Tidewater Fisheries [may] desires to reclassify any submerged area of the State from natural oyster bed, excluded from leasing, to barren bottom open to being leased, it shall re-examine the area in question and it shall advertise the time, place, and purpose to re-examine the area, twice a week for two successive weeks, in a newspaper of general circulation in the county, if the area is within county waters, or in a newspaper of general circulation in the State, if the area is not within the waters of any county. Any members of the public may be present at the re-examination. If any person present then and there offers to make further tests in the presence of the agents of the Department of Tidewater Fisheries they shall witness same and make note of the findings. If upon re-examination the Department of Tidewater Fisheries proposes to reclassify the area from natural bed to barren bottom, it shall first hold a public hearing, and the time, place, and purpose shall be advertised as aforesaid. Any person may, by way of appeal from the decision of the Department, file petition in the circuit court of the county, at any time until expiration of thirty days from the filing of an amended chart in said circuit court showing the re-classification, and the same proceedings shall be had thereon as are now provided in sub-section (k) of this section and with the same*