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LEGISLATIVE ACTION

Senate

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House

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04/29/2009 05:05 PM

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Senators Dean and Bennett moved the following:

Senate Amendment (with title amendment)

Delete lines 73 - 275

and insert:

Section 1. Section 193.704, Florida Statutes, is created to read:

193.704 Working waterfront property; definitions; classification and assessment; denial of classification and appeal.—

(1) DEFINITIONS.—For purposes of granting a working waterfront property classification under this section for January 1, 2010, and thereafter, the term:



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13 (a) "Accessible to the public" means routinely available to
14 the public from sunrise to sunset, with or without charge, with
15 appropriate accommodations, including, but not limited to,
16 public parking or public boat ramps that are available for use
17 by the general public.

18 (b) "Commercial fishing operation" has the same meaning as
19 that provided in s. 379.2351.

20 (c) "Commercial fishing facility" means docks, piers,
21 processing houses, or other facilities which support a
22 commercial fishing operation as defined in paragraph (b), or an
23 aquaculture operation licensed under chapter 253.

24 (d) "Drystack" means a vessel storage facility or building
25 in which storage spaces for vessels are available for use by the
26 public on a first-come, first-served basis with no automatic
27 renewal rights or conditions. The term excludes storage that is
28 purchased, received, or rented as a result of homeownership or
29 tenancy.

30 (e) "Land used predominantly for commercial fishing
31 purposes" means land used in good faith in a venture for-profit
32 commercial fishing operation for the taking or harvesting of
33 freshwater fish or saltwater products, as defined in s. 379.101,
34 for which a commercial license to take, harvest, or sell such
35 fish or products is required under chapter 379, or land used in
36 an aquaculture operation authorized under ss. 253.67-253.75.

37 (f) "Marina" means a licensed commercial facility that
38 provides secured public moorings or drystacks for vessels on a
39 first-come, first-served basis and with no automatic renewal
40 rights or conditions. The term excludes mooring or storage that
41 is purchased, received, or rented as a result of homeownership



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42 or tenancy.

43 (g) "Marine manufacturing facility" means a facility that
44 manufactures vessels for use in waters that are navigable.

45 (h) "Marine vessel construction and repair facility" means
46 a facility that constructs and repairs vessels that travel over
47 waters that are navigable, including, but not limited to,
48 shipyards and boatyards. As used in this section, the term
49 "repair" includes retrofitting and maintenance of vessels.

50 (i) "Open to the public" means for hire to the general
51 public and accessible during normal operating hours.

52 (j) "Support facility" means a facility that typically is
53 colocated with marine vessel construction and repair facilities,
54 including, but not limited to, shops, equipment, and salvage
55 facilities.

56 (k) "Water-dependent" means that the operations of a
57 facility require direct access to water.

58 (l) "Waterfront" means property that is on, over, or
59 abutting waters that are navigable.

60 (m) "Waters that are navigable" means any body of water
61 that is subject to the ebb and flow of the tide, connects with
62 continuous interstate waterway, has navigable capacity, and is
63 actually navigable.

64 (2) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.—

65 (a) The following waterfront properties are eligible for
66 classification as working waterfront property:

67 1. Land used predominantly for commercial fishing purposes.

68 2. Land that is accessible to the public and used for
69 vessel launches into waters that are navigable.

70 3. Marinas and drystacks that are open to the public.



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71 4. Water-dependent marine manufacturing facilities.

72 5. Water-dependent commercial fishing facilities.

73 6. Water-dependent marine vessel construction and repair
74 facilities and their support facilities.

75 (b) Property classified as working waterfront property
76 under this section shall be assessed on the basis of current
77 use. The assessed value shall be calculated using the income
78 approach to value, and using a capitalization rate based upon
79 the debt coverage ratio formula. The capitalization rate shall
80 be calculated and updated annually. The capitalization rate
81 shall be based on data that is county specific unless
82 insufficient data is available, in which case the property
83 appraisers shall use data from counties with similar conditions
84 and characteristics, or data provided by the department. The
85 condition and size of the property shall also be taken into
86 account when assessing the property.

87 (c)1. Property may not be classified as working waterfront
88 property unless an application for such classification is filed
89 with the property appraiser on or before March 1 of each year in
90 the county in which the property is located. Before approving
91 such classification, the property appraiser may require the
92 applicant to establish that the property is actually used as
93 required under this section. The property appraiser may require
94 the applicant to furnish the property appraiser such information
95 as may reasonably be required to establish that such property
96 was actually used for working waterfront purposes, and to
97 establish the classified use value of the property, including
98 income and expense data. The owner or lessee of property
99 classified as working waterfront property in the prior year may



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100 reapply on a short form provided by the Department of Revenue.
101 The lessee of property may make original application or reapply
102 on a short form if the lease, or an affidavit executed by the
103 owner, provides that the lessee is empowered to make application
104 for the working waterfront classification on behalf of the owner
105 and a copy of the lease or affidavit accompanies the
106 application. An applicant may withdraw an application on or
107 before the 25th day following the mailing of the notice of
108 proposed property taxes pursuant to s. 200.069 in the year the
109 application was filed.

110 2. Failure by a property owner or lessee to apply for a
111 classification as working waterfront property by March 1 shall
112 constitute a waiver for 1 year of the privilege granted in this
113 section. However, a person who is qualified to receive a working
114 waterfront classification but who fails to timely apply for
115 classification may file an application for classification with
116 the property appraiser. Upon review of the application, if the
117 applicant is qualified to receive the classification and
118 demonstrates particular extenuating circumstances that warrant
119 the classification, the property appraiser may grant the
120 classification.

121 3. A county, at the request of the property appraiser and
122 by a majority vote of its governing body, may waive the
123 requirement that an annual application or short form be filed
124 with the property appraiser for renewal of the classification of
125 property within the county as working waterfront property. Such
126 waiver may be revoked by a majority of the county governing
127 body.

128 4. Notwithstanding subparagraph 2., a new application for



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129 classification as working waterfront property must be filed with
130 the property appraiser whenever any property granted the
131 classification as working waterfront property is sold or
132 otherwise disposed of, whenever ownership or the lessee changes
133 in any manner, whenever the owner or the lessee ceases to use
134 the property as working waterfront property, or whenever the
135 status of the owner or the lessee changes so as to change the
136 classified status of the property.

137 5. The property appraiser shall remove from the
138 classification as working waterfront property any property for
139 which the classified use has been abandoned or discontinued, or
140 the property has been diverted to an unclassified use. Such
141 removed property shall be assessed at just value as provided in
142 s. 193.011.

143 6.a. The owner of any property classified as working
144 waterfront property who is not required to file an annual
145 application under this section, and the lessee if the
146 application was made by the lessee, shall notify the property
147 appraiser promptly whenever the use of the property or the
148 status or condition of the owner or lessee changes, so as to
149 change the classified status of the property. If any such
150 property owner or lessee fails to notify the property appraiser
151 and the property appraiser determines that for any year within
152 the prior 10 years the owner was not entitled to receive such
153 classification, the owner of the property is subject to taxes
154 otherwise due and owing as a result of such failure plus 15
155 percent interest per annum and a penalty of 50 percent of the
156 additional taxes owed. However, the penalty may be waived if the
157 owner or lessee can demonstrate that they took reasonable care



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158 to notify the property appraiser of the change in use, status,
159 or condition of the property.

160 b. The property appraiser making such determination shall
161 record in the public records of the county in which the working
162 waterfront property is located a notice of tax lien against any
163 property owned by the working waterfront property owner, and
164 such property must be identified in the notice of tax lien. Such
165 property is subject to the payment of all taxes and penalties.
166 Such lien, when filed, attaches to any property identified in
167 the notice of tax lien owned by the person or entity that
168 illegally or improperly received the classification. If such
169 person or entity no longer owns property in that county but owns
170 property in another county or counties in the state, the
171 property appraiser shall record in such other county or counties
172 a notice of tax lien identifying the property owned by the
173 working waterfront property owner in such county or counties
174 which shall become a lien against the identified property.

175 7. When a parcel receiving a working waterfront
176 classification contains facilities or vacant land not eligible
177 to be classified as a working waterfront property under this
178 subsection, the facilities and their curtilage, as well as the
179 vacant land, must be assessed separately as provided in s.
180 193.011.

181 8. The property appraiser shall have available at his or
182 her office a list by ownership of all applications for
183 classification as working waterfront property received, showing
184 the acreage, the full valuation under s. 193.011, the value of
185 the land under the provisions of this subsection, and whether or
186 not the classification was granted.



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187 (3) DENIAL OF CLASSIFICATION; APPEAL.-

188 (a) The property appraiser shall notify an applicant for a
189 working waterfront classification in writing of a denial of an
190 application for such classification on or before July 1 of the
191 year for which the application was filed. The notification shall
192 advise the applicant of his or her right to appeal to the value
193 adjustment board and of the appeal filing deadline.

194 (b) Any applicant whose application for classification as
195 working waterfront property is denied by the property appraiser
196 may appeal to the value adjustment board by filing a petition
197 requesting that the classification be granted. The petition may
198 be filed on or before the 25th day following the mailing of the
199 assessment notice by the property appraiser as required under s.
200 194.011(1). Notwithstanding the provisions of s. 194.013, the
201 petitioner shall pay a nonrefundable fee of \$15 upon filing the
202 petition. Upon the value adjustment board's review of the
203 petition, if the petitioner is qualified to receive the
204 classification and demonstrates particular extenuating
205 circumstances which warrant granting the classification, the
206 value adjustment board may grant the petition and
207 classification.

208 (c) A denial of a petition for classification by the value
209 adjustment board may be appealed to a court of competent
210 jurisdiction.

211 (d)1. Property that has received a working waterfront
212 classification from the value adjustment board or a court of
213 competent jurisdiction under this subsection is entitled to
214 receive such classification in any subsequent year until such
215 use is changed, abandoned or discontinued, or the ownership



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216 changes in any manner as provided in subparagraph (2)(c)4. The
217 property appraiser shall, no later than January 31 of each year,
218 provide notice to the property owner or lessee receiving a
219 classification under this subsection requiring the property
220 owner or a lessee qualified to make application to certify that
221 the ownership and the use of the property has not changed. The
222 department shall prescribe by rule the form of the notice to be
223 used by the property appraiser.

224 2. If a county has waived the requirement that an annual
225 application or short form be filed for classification of the
226 property under subsection (2), the county may, by majority vote
227 of its governing body, waive the notice and certification
228 requirements of this paragraph and shall provide the property
229 owner or lessee with the same notification as provided to
230 property owners granted a working waterfront classification by
231 the property appraiser. Such waiver may be revoked by a majority
232 vote of the county governing body.

233
234 ===== T I T L E A M E N D M E N T =====

235 And the title is amended as follows:

236 Delete lines 4 - 40

237 and insert:

238 identifying property that is eligible for classification as
239 working waterfront property; requiring the assessment of working
240 waterfront property based on current use; requiring an
241 application for classification of property as working waterfront
242 property; authorizing a property appraiser to approve an
243 application that is not filed by a certain deadline due to
244 extenuating circumstances; providing for the waiver of annual



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245 application requirements; providing for the loss of
246 classification upon a change of ownership or use; requiring that
247 property owners notify the property appraiser of changes in use
248 or ownership of property; imposing a penalty on a property owner
249 who fails to notify the property appraiser of an event resulting
250 in the unlawful or improper classification of property as
251 working waterfront property; requiring the imposition of tax
252 liens to recover penalties and interest; providing for the
253 assessment of a portion of property within a working waterfront
254 property which is not used as working waterfront property;
255 requiring that a property appraiser make a list relating to
256 applications to certify property as working waterfront property;
257 providing an appeal process for an application that has been
258 denied; amending s. 195.073, F.S.;