

By Senator Dean

21-01148B-09

20091468__

1 A bill to be entitled
2 An act relating to working waterfront property;
3 creating s. 193.704, F.S.; providing definitions;
4 creating s. 193.7041, F.S.; identifying property that
5 is eligible for classification as working waterfront
6 property; requiring the assessment of working
7 waterfront property based on current use; requiring an
8 application for classification of property as working
9 waterfront property; authorizing a property appraiser
10 to approve an application that is not filed by a
11 certain deadline due to extenuating circumstances;
12 providing for waiver of annual application
13 requirements; providing for loss of classification
14 upon a change of ownership or use; requiring property
15 owners to notify the property appraiser of changes in
16 use or ownership of property; imposing a penalty on a
17 property owner that fails to notify the property
18 appraiser of an event that results in the unlawful or
19 improper classification of property as working
20 waterfront property; requiring the imposition of tax
21 liens to recover penalties and interest; providing for
22 the assessment of a portion of property within a
23 working waterfront property which is not used as
24 working waterfront property; requiring a property
25 appraiser to make a list relating to applications to
26 certify property as working waterfront property;
27 creating s. 193.7042, F.S.; requiring property
28 appraisers to notify property owners of the denial of
29 an application to classify property as working

21-01148B-09

20091468__

30 waterfront property; providing for the appeal of the
31 denial to the value adjustment board; requiring a
32 filing fee of a certain amount; providing for the
33 appeal to the circuit court of a denial of a petition
34 to the value adjustment board; requiring property
35 appraisers to notify property owners whose property
36 was classified as working waterfront property by a
37 value adjustment board or court to recertify that the
38 use and ownership of the property have not changed;
39 authorizing the waiver of certain notice and
40 certification requirements; providing an effective
41 date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Section 193.704, Florida Statutes, is created to
46 read:

47 193.704 Working waterfront property; definitions.—As used
48 in ss. 193.704-193.7042, the term:

49 (1) "Accessible to the public" means routinely open to the
50 public, with or without charge, from sunrise to sunset and
51 having appropriate public accommodations, such as public parking
52 or public boat ramps.

53 (2) "Commercial fishing operation" has the same meaning as
54 in s. 379.2351.

55 (3) "Drystack" means a vessel-storage facility or building
56 in which the storage spaces for vessels are available for use by
57 the public on a first-come, first-served lease basis without
58 automatic renewal rights or conditions. The term does not

21-01148B-09

20091468__

59 include drystacks in which boat storage is limited to persons
60 who purchase, receive, or rent a storage space as a condition of
61 homeownership or tenancy.

62 (4) "Marina" means a licensed commercial facility that
63 provides secured public moorings or drystacks for boats on a
64 first-come, first-served leased basis and without automatic
65 renewal rights or conditions. The term does not include marinas
66 that limit mooring or storage of vessels to persons who
67 purchase, receive, or rent a mooring slip or storage space as a
68 condition of homeownership or tenancy.

69 (5) "Land used predominantly for commercial fishing
70 purposes" means land used in good faith in a venture for-profit
71 commercial fishing operation for the taking or harvesting of
72 freshwater fish or saltwater products, as defined in s. 379.101,
73 for which a commercial license to take, harvest, or sell such
74 freshwater fish or saltwater products is required under chapter
75 379.

76 (6) "Marine manufacturing facility" means a facility that
77 manufactures vessels for use in waters that are navigable.

78 (7) "Marine vessel construction and repair facilities"
79 means facilities such as shipyards or dockyards that construct
80 and repair vessels that travel over waters that are navigable.
81 As used in this section, the term "repair" includes retrofitting
82 and maintenance.

83 (8) "Open to the public" means for hire to the public and
84 accessible during normal operating hours.

85 (9) "Support activities" means those facilities that are
86 typically colocated with marine vessel construction and repair
87 facilities, such as shop, equipment, or salvage facilities.

21-01148B-09

20091468__

88 (10) "Water-dependent" means that the operations of a
89 facility require direct access to the water.

90 (11) "Waterfront" means property that is on, over, or
91 abutting waters that are navigable.

92 (12) "Waters that are navigable" means the waters of the
93 state which are capable of supporting boating and are used or
94 may be used in their ordinary condition as highways for commerce
95 for which trade or travel are or may be conducted in the
96 customary modes of trade or travel on water.

97 Section 2. Section 193.7041, Florida Statutes, is created
98 to read:

99 193.7041 Working waterfront property; classification and
100 assessment; loss of classification; penalty.-

101 (1) Pursuant to s. 4(j), Art. VII of the State
102 Constitution, effective January 1, 2010, the following
103 waterfront property is eligible for classification as working
104 waterfront property:

105 (a) Land used predominantly for commercial fishing
106 purposes.

107 (b) Land that is accessible to the public and used for
108 vessel launches into waters that are navigable.

109 (c) Marinas and drystacks that are open to the public.

110 (d) Water-dependent marine manufacturing facilities.

111 (e) Water-dependent commercial fishing facilities.

112 (f) Water-dependent marine vessel construction and repair
113 facilities and their support activities.

114 (2) Property classified as working waterfront property
115 pursuant to this section must be assessed on the basis of
116 current use. Assessed value must be calculated using the income

21-01148B-09

20091468

117 approach to value as described in *The Appraisal of Real Estate,*
118 *Thirteenth Edition,* published by the Appraisal Institute. The
119 capitalization rate used to determine assessed value must be
120 based upon a debt coverage ratio formula, in which the
121 capitalization rate equals the debt coverage ratio multiplied by
122 the mortgage capitalization multiplied by the loan-to-value
123 ratio for comparable properties. The capitalization rate must be
124 calculated and updated annually. In assessing working waterfront
125 property, a property appraiser shall use data from lenders for
126 industrywide loan interest rates, loan-to-value ratios,
127 amortization terms, payment periods, debt coverage ratio
128 requirements, market rental rates, market expense rates, and
129 market vacancy rates. The data must be county-specific unless
130 insufficient data is available, in which case the property
131 appraiser shall use data for surrounding counties.

132 (3) (a) Property may not be classified as working waterfront
133 property unless an application for the classification is filed
134 with the property appraiser on or before March 1 of each year in
135 the county in which the property is located. Before classifying
136 the property as working waterfront property, the property
137 appraiser may require the property owner to establish that the
138 property is used as required under this section. The owner of
139 property classified as working waterfront property in the prior
140 year may reapply on a short form adopted by rule by the
141 Department of Revenue.

142 (b) Failure by a property owner to apply for the
143 classification as working waterfront property by March 1
144 constitutes a waiver of the classification for 1 year. However,
145 the property appraiser may approve a late application and grant

21-01148B-09

20091468__

146 a working waterfront classification if the property owner
147 establishes that extenuating circumstances prevented the
148 property owner from filing an application by the deadline.

149 (c) A county may, at the request of the property appraiser
150 and by a majority vote of its governing body, waive the
151 requirement that an annual application or short form be filed
152 with the property appraiser for renewal of the classification of
153 property as working waterfront property. The waiver may be
154 revoked by a majority vote of the governing body of the county.

155 (d) Notwithstanding paragraph (c), a new application for
156 classification as working waterfront property must be filed with
157 the property appraiser after the property receiving the
158 classification is sold or otherwise disposed of, or the
159 ownership changes in any manner, or the use of the property as
160 working waterfront property is abandoned or discontinued.

161 (e) The property appraiser shall remove from the
162 classification as working waterfront property any property for
163 which the classified use has been abandoned or discontinued. The
164 removed property shall be assessed at just value pursuant to s.
165 193.011.

166 (f)1. The owner of classified working waterfront property
167 who is not required to file an annual application under this
168 section must notify the property appraiser promptly if the use
169 of the property or the ownership changes in a manner that
170 changes the classified status of the property. If a property
171 owner fails to notify the property appraiser and the property
172 appraiser determines that, for any year within the prior 10
173 years, the property was not qualified to receive the
174 classification, the owner of the property is subject to taxes

21-01148B-09

20091468

175 otherwise due and owing as a result of the failure plus 15
176 percent interest per annum and a penalty of 50 percent of the
177 additional taxes owed.

178 2. A property appraiser who determines that a property
179 owner failed to provide the required notice of change in use or
180 ownership must record a tax lien against real property owned by
181 the person or entity. The property is subject to the payment of
182 all taxes and penalties. If the person or entity no longer owns
183 property in the county in which the unlawfully or improperly
184 classified working waterfront property is located, the property
185 appraiser shall record a tax lien against other properties owned
186 by the person or entity in other counties of this state. Any tax
187 lien recorded pursuant to this paragraph must identify the
188 property that was unlawfully or improperly classified as working
189 waterfront property and the property to which the lien applies.

190 (g) The portion of a property classified as a working
191 waterfront property which contains a residence, or a marina,
192 drystack, or other facility that is not eligible for
193 classification as a working waterfront property pursuant to s.
194 193.7041, must be assessed pursuant to s. 193.011.

195 (h) The property appraiser must make a list of all
196 applications for classification as working waterfront property.
197 The list must include the acreage, the just value of the
198 property determined pursuant to s. 193.011, the value of the
199 property if classification as working waterfront property is
200 granted or the reason if classification is denied, the name of
201 the property owner, the name of any business operating on the
202 property, and the address of the property.

203 Section 3. Section 193.7042, Florida Statutes, is created

21-01148B-09

20091468__

204 to read:

205 193.7042 Working waterfront property; denial of
206 classification; appeal process.-

207 (1) The property appraiser must provide a written notice to
208 a property owner applying for a working waterfront
209 classification of the denial of an application to classify
210 property as working waterfront property on or before July 1 of
211 the year for which the application was filed. The notice must
212 advise the property owner of his or her right to appeal the
213 denial to the value adjustment board and of the deadline for
214 filing an appeal.

215 (2) Any property owner whose application for classification
216 as working waterfront property is denied may appeal the denial
217 to the value adjustment board by filing a petition requesting
218 that the application for classification be approved. The
219 petition may be filed at any time during the taxable year on or
220 before the 25th day following the mailing of the assessment
221 notice by the property appraiser pursuant to s. 194.011(1).
222 Notwithstanding s. 194.013, the petitioner must pay a
223 nonrefundable fee of \$15 upon filing the petition. The value
224 adjustment board shall grant the petition if the petitioner
225 establishes that the property is qualified to be classified as
226 working waterfront property.

227 (3) A denial of a petition for classification by the value
228 adjustment board may be appealed to the circuit court.

229 (4) (a) Property that receives a working waterfront
230 classification from the value adjustment board or the circuit
231 court under this section retains that classification in any
232 subsequent year until the use of the property as working

21-01148B-09

20091468__

233 waterfront property is abandoned or discontinued, or the
234 ownership changes in any manner. The property appraiser shall,
235 no later than January 31 of each year, notify a property owner
236 receiving a classification under this subsection to certify that
237 the ownership and the use of the property has not changed. The
238 department shall prescribe by rule adopted pursuant to ss.
239 120.536(1) and 120.54 the form of the notice to be used by the
240 property appraiser.

241 (b) If a county has waived the requirement that an annual
242 application or short form be filed for classification of the
243 property under s. 193.7041, the county may, by majority vote of
244 its governing body, waive the notice and certification
245 requirements of this subsection and shall provide the property
246 owner with the same notification as provided to property owners
247 granted a working waterfront classification by the property
248 appraiser. The waiver may be revoked by a majority vote of the
249 county governing body.

250 Section 4. This act shall take effect July 1, 2009.