

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Robaina offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (1) of section 197.073, Florida

6 Statutes, is amended to read:

7 195.073 Classification of property.--All items required by  
8 law to be on the assessment rolls must receive a classification  
9 based upon the use of the property. The department shall  
10 promulgate uniform definitions for all classifications. The  
11 department may designate other subclassifications of property.  
12 No assessment roll may be approved by the department which does  
13 not show proper classifications.

14 (1) Real property must be classified according to the  
15 assessment basis of the land into the following classes:

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16 (a) Residential, subclassified into categories, one  
17 category for homestead property and one for nonhomestead  
18 property:

19 1. Single family.

20 2. Mobile homes.

21 3. Multifamily.

22 4. Condominiums.

23 5. Cooperatives.

24 6. Retirement homes.

25 (b) Commercial and industrial.

26 (c) Agricultural.

27 (d) Nonagricultural acreage.

28 (e) High-water recharge.

29 (f) Historic property used for commercial or certain  
30 nonprofit purposes.

31 (g) Exempt, wholly or partially.

32 (h) Centrally assessed.

33 (i) Leasehold interests.

34 (j) Time-share property.

35 (k) Working waterfront property.

36 (l) ~~(k)~~ Other.

37 Section 2. Section 193.704, Florida Statutes, is created  
38 to read:

39 193.704 Working waterfront property; definitions;  
40 classification and assessment; denial of classification and  
41 appeal.--

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

45       (a) "Accessible to the public" means routinely available  
46 to the public from sunrise to sunset, with or without charge,  
47 with appropriate accommodations, including, but not limited to,  
48 public parking or public boat ramps that are available for use  
49 by the general public.

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

52       (c) "Commercial fishing facility" means a structure or  
53 structures, including land, that support a commercial fishing  
54 operation.

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

61       (e) "Land used predominantly for commercial fishing  
62 purposes" means land used in good faith in a venture for-profit  
63 commercial fishing operation for the taking or harvesting of  
64 freshwater fish or saltwater products, as defined in s. 379.101,  
65 for which a commercial license to take, harvest, or sell such  
66 fish or products is required under chapter 379, or in an  
67 operation authorized in ss. 253.67-253.75.

68       (f) "Marina" means a licensed commercial facility that  
69 provides secured public moorings or drystacks for vessels on a  
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70 first-come, first-served basis and with no automatic renewal  
71 rights or conditions. The term excludes mooring or storage that  
72 is purchased, received, or rented as a result of homeownership  
73 or tenancy.

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

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

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

83 (j) "Support facility" means a facility that typically is  
84 colocated with marine vessel construction and repair facilities,  
85 including, but not limited to, shops, equipment, and salvage  
86 facilities.

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

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

91 (m) "Waters that are navigable" includes any body of water  
92 that is subject to the ebb and flow of the tide, connects with  
93 continuous interstate waterways, has navigable capacity, and is  
94 actually navigable.

95 (2) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.--

96 (a) The following waterfront properties are eligible for  
97 classification as working waterfront property:

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98        1. Land used predominantly for commercial fishing  
99 purposes.

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

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

103        4. Water-dependent marine manufacturing facilities.

104        5. Water-dependent commercial fishing facilities.

105        6. Water-dependent marine vessel construction and repair  
106 facilities and their support facilities.

107        (b)1. Property classified as working waterfront property  
108 under this section shall be assessed solely on the basis of the  
109 property's current use. The property appraiser shall consider  
110 only the following use factors:

111        a. The condition of the property.

112        b. The present market value of the property in its current  
113 use.

114        c. The income produced by the property.

115        2. In no event shall the assessed value of the property  
116 exceed just value.

117        (c)1. Property may not be classified as working waterfront  
118 property unless an application for such classification is filed  
119 with the property appraiser on or before March 1 of each year in  
120 the county in which the property is located. Before approving  
121 such classification, the property appraiser may require the  
122 applicant to establish that the property is actually used as  
123 required under this section. The property appraiser may require  
124 the applicant to furnish the property appraiser such information  
125 as may reasonably be required to establish that such property

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126 was actually used for working waterfront purposes and to  
127 establish the classified use value of the property, including  
128 income and expense data. The owner or lessee of property  
129 classified as working waterfront property in the prior year may  
130 reapply on a short form provided by the Department of Revenue.  
131 The lessee of property may make original application or reapply  
132 on a short form if the lease, or an affidavit executed by the  
133 owner, provides that the lessee is empowered to make application  
134 for the working waterfront classification on behalf of the owner  
135 and a copy of the lease or affidavit accompanies the  
136 application. An applicant may withdraw an application on or  
137 before the 25th day following the mailing of the notice of  
138 proposed property taxes pursuant to s. 200.069 in the year the  
139 application was filed.

140 2. Failure by a property owner or lessee to apply for a  
141 classification as working waterfront property by March 1 shall  
142 constitute a waiver for 1 year of the privilege granted in this  
143 section. However, a person who is qualified to receive a working  
144 waterfront classification but who fails to timely apply for  
145 classification may file an application for classification with  
146 the property appraiser. Upon review of the application, if the  
147 applicant is qualified to receive the classification and  
148 demonstrates particular extenuating circumstances that warrant  
149 the classification, the property appraiser may grant the  
150 classification.

151 3. A county, at the request of the property appraiser and  
152 by a majority vote of its governing body, may waive the  
153 requirement that an annual application or short form be filed

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154 with the property appraiser for renewal of the classification of  
155 property within the county as working waterfront property. Such  
156 waiver may be revoked by a majority of the county governing  
157 body.

158 4. Notwithstanding subparagraph 2., a new application for  
159 classification as working waterfront property must be filed with  
160 the property appraiser whenever any property granted the  
161 classification as working waterfront property is sold or  
162 otherwise disposed of, whenever ownership or the lessee changes  
163 in any manner, whenever the owner or lessee ceases to use the  
164 property as working waterfront property, or whenever the status  
165 of the owner or lessee changes so as to change the classified  
166 status of the property.

167 5. The property appraiser shall remove from the  
168 classification as working waterfront property any property for  
169 which the classified use has been abandoned or discontinued, or  
170 the property has been diverted to an unclassified use. Such  
171 removed property shall be assessed at just value as provided in  
172 s. 193.011.

173 6.a. The owner of any property classified as working  
174 waterfront property who is not required to file an annual  
175 application under this section, or the lessee if the application  
176 was made by the lessee, shall notify the property appraiser  
177 promptly whenever the use of the property or the status or  
178 condition of the owner or lessee changes, so as to change the  
179 classified status of the property. If any such property owner or  
180 lessee fails to notify the property appraiser and the property  
181 appraiser determines that for any year within the prior 10 years

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182 the owner was not entitled to receive such classification, the  
183 owner of the property is subject to taxes otherwise due and  
184 owing as a result of such failure plus 15 percent interest per  
185 annum and a penalty of 50 percent of the additional taxes owed.  
186 However, the penalty may be waived if the owner or lessee can  
187 demonstrate that he or she took reasonable care to properly  
188 classify the property.

189 b. The property appraiser making such determination shall  
190 record in the public records of the county in which the working  
191 waterfront property is located a notice of tax lien against any  
192 property owned by the working waterfront property owner, and  
193 such property must be identified in the notice of tax lien. Such  
194 property is subject to the payment of all taxes and penalties.  
195 Such lien, when filed, attaches to any property identified in  
196 the notice of tax lien owned by the person or entity that  
197 illegally or improperly received the classification. If such  
198 person or entity no longer owns property in that county but owns  
199 property in another county or counties in the state, the  
200 property appraiser shall record in such other county or counties  
201 a notice of tax lien identifying the property owned by the  
202 working waterfront property owner in such county or counties  
203 which shall become a lien against the identified property.

204 7. When a parcel receiving a working waterfront  
205 classification contains facilities or vacant land not eligible  
206 to be classified as a working waterfront property under this  
207 subsection, such facilities and the facilities' curtilage, as  
208 well as the vacant land, must be assessed separately as provided  
209 in s. 193.011.

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210       8. The property appraiser shall have available at his or  
211 her office a list by ownership of all applications for  
212 classification as working waterfront property received, showing  
213 the acreage, the full valuation under s. 193.011, the value of  
214 the land under the provisions of this subsection, and whether or  
215 not the classification was granted.

216       (3) DENIAL OF CLASSIFICATION; APPEAL.--

217       (a) The property appraiser shall notify an applicant  
218 applying for a working waterfront classification in writing of a  
219 denial of an application for such classification on or before  
220 July 1 of the year for which the application was filed. The  
221 notification shall advise the applicant of his or her right to  
222 appeal to the value adjustment board and of the appeal filing  
223 deadline.

224       (b) Any applicant whose application for classification as  
225 working waterfront property is denied by the property appraiser  
226 may appeal to the value adjustment board by filing a petition  
227 requesting that the classification be granted. The petition may  
228 be filed on or before the 25th day following the mailing of the  
229 assessment notice by the property appraiser as required under s.  
230 194.011(1). Notwithstanding the provisions of s. 194.013, the  
231 petitioner shall pay a nonrefundable fee of \$15 upon filing the  
232 petition. Upon the value adjustment board's review of the  
233 petition, if the petitioner is qualified to receive the  
234 classification and demonstrates particular extenuating  
235 circumstances which warrant granting the classification, the  
236 value adjustment board may grant the petition and  
237 classification.

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238 (c) A denial of a petition for classification by the value  
239 adjustment board may be appealed to a court of competent  
240 jurisdiction.

241 (d)1. Property that has received a working waterfront  
242 classification from the value adjustment board or a court of  
243 competent jurisdiction under this subsection is entitled to  
244 receive such classification in any subsequent year until such  
245 use is changed, abandoned, or discontinued, or the ownership  
246 changes in any manner as provided in subparagraph (2)(c)4. The  
247 property appraiser shall, no later than January 31 of each year,  
248 provide notice to the property owner or lessee receiving a  
249 classification under this subsection requiring the property  
250 owner or lessee qualified to make application to certify that  
251 the ownership and the use of the property has not changed. The  
252 department shall prescribe by rule the form of the notice to be  
253 used by the property appraiser.

254 2. If a county has waived the requirement that an annual  
255 application or short form be filed for classification of the  
256 property under subsection (2), the county may, by majority vote  
257 of its governing body, waive the notice and certification  
258 requirements of this paragraph and shall provide the property  
259 owner or lessee with the same notification as provided to  
260 property owners granted a working waterfront classification by  
261 the property appraiser. Such waiver may be revoked by a majority  
262 vote of the county governing body.

263 Section 3. This act shall take effect October 1, 2009, and  
264 shall apply to assessments beginning January 1, 2010.  
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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

An act relating to ad valorem taxation of working waterfront property; amending s. 195.073, F.S.; specifying an additional type of real property required to be classified; creating s. 193.704, F.S.; providing definitions; providing for classification and assessment of certain properties based upon current use; providing requirements for an assessment methodology; providing classification application requirements, limitations, and procedures; providing for continuing classification of such property under certain circumstances; providing limitations; providing for loss of classification under certain circumstances; providing penalties; providing for waiver of penalties under certain circumstances; providing requirements for property appraisers; providing for denial of classification applications; providing procedures and requirements for appealing application denials; providing an effective date.