

1                   A bill to be entitled  
 2           An act relating to ad valorem taxation of working  
 3           waterfront property; creating s. 193.704, F.S.; providing  
 4           definitions; providing for classification and assessment  
 5           of certain properties based upon current use; providing  
 6           requirements for an assessment methodology; providing  
 7           classification application requirements, limitations, and  
 8           procedures; providing for continuing classification of  
 9           such property under certain circumstances; providing  
 10          limitations; providing for loss of classification under  
 11          certain circumstances; providing penalties; providing for  
 12          waiver of penalties under certain circumstances; providing  
 13          requirements for property appraisers; providing for denial  
 14          of classification applications; providing procedures and  
 15          requirements for appealing application denials; providing  
 16          an effective date.

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 18   Be It Enacted by the Legislature of the State of Florida:

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

22           193.704 Working waterfront property; definitions;  
 23           classification and assessment; denial of classification and  
 24           appeal.--

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

28           (a) "Accessible to the public" means routinely available

29 to the public from sunrise to sunset, with or without charge,  
30 with appropriate accommodations, including, but not limited to,  
31 public parking or public boat ramps that are available for use  
32 by the general public.

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

35 (c) "Drystack" means a vessel storage facility or building  
36 in which storage spaces for vessels are available for use by the  
37 public on a first-come, first-served basis with no automatic  
38 renewal rights or conditions. The term excludes storage that is  
39 purchased, received, or rented as a result of homeownership or  
40 tenancy.

41 (d) "Land used predominantly for commercial fishing  
42 purposes" means land used in good faith in a venture for-profit  
43 commercial fishing operation for the taking or harvesting of  
44 freshwater fish or saltwater products, as defined in s. 379.101,  
45 for which a commercial license to take, harvest, or sell such  
46 fish or products is required under chapter 379 or in an  
47 operation authorized in ss. 253.67-253.75.

48 (e) "Marina" means a licensed commercial facility that  
49 provides secured public moorings or drystacks for vessels on a  
50 first-come, first-served basis and with no automatic renewal  
51 rights or conditions. The term excludes mooring or storage that  
52 is purchased, received, or rented as a condition of  
53 homeownership or tenancy.

54 (f) "Marine manufacturing facility" means a facility that  
55 manufactures vessels for use in waters that are navigable.

56 (g) "Marine vessel construction and repair facility" means

57 a facility that constructs and repairs vessels that travel over  
 58 waters that are navigable, including, but not limited to,  
 59 shipyards and boatyards. As used in this section, the term  
 60 "repair" includes retrofitting and maintenance of vessels.

61 (h) "Open to the public" means for hire to the general  
 62 public and accessible during normal operating hours.

63 (i) "Support facility" means a facility that typically is  
 64 colocated with marine vessel construction and repair facilities,  
 65 including, but not limited to, shops, equipment, and salvage  
 66 facilities.

67 (j) "Water-dependent" means that the operations of a  
 68 facility require direct access to water.

69 (k) "Waterfront" means property that is on, over, or  
 70 abutting waters that are navigable.

71 (l) "Waters that are navigable" includes any body of water  
 72 in the state that is capable, in its natural state, of being  
 73 navigated by floating vessels of any description for the purpose  
 74 of transportation, recreation, or commerce. The term also  
 75 includes a canal and any other body of water created or altered  
 76 for public use, as well as any waterway for which a public right  
 77 of navigation exists by dedication of the waterway for public  
 78 purposes or by the public having acquired the right to navigate  
 79 through long use.

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

81 (a) The following waterfront properties are eligible for  
 82 classification as working waterfront property:

83 1. Land used predominantly for commercial fishing  
 84 purposes.

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

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

88           4. Water-dependent marine manufacturing facilities.

89           5. Water-dependent commercial fishing facilities.

90           6. Water-dependent marine vessel construction and repair  
 91 facilities and their support facilities.

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

96           a. The condition of the property.

97           b. The present market value of the property in its current  
 98 use for the foreseeable future.

99           c. The income produced by the property.

100           2. In no event shall the assessed value of the property  
 101 exceed just value.

102           (c)1. Property may not be classified as working waterfront  
 103 property unless an application for such classification is filed  
 104 with the property appraiser on or before March 1 of each year in  
 105 the county in which the property is located. Before approving  
 106 such classification, the property appraiser may require the  
 107 applicant to establish that the property is actually used as  
 108 required under this section. The property appraiser may require  
 109 the applicant to furnish the property appraiser such information  
 110 as may reasonably be required to establish that such property  
 111 was actually used for working waterfront purposes and to  
 112 establish the classified use value of the property, including

113 income and expense data. The owner or lessee of property  
114 classified as working waterfront property in the prior year may  
115 reapply on a short form provided by the Department of Revenue.  
116 The lessee of property may make original application or reapply  
117 on a short form if the lease, or an affidavit executed by the  
118 owner, provides that the lessee is empowered to make application  
119 for the working waterfront classification on behalf of the owner  
120 and a copy of the lease or affidavit accompanies the  
121 application. An applicant may withdraw an application on or  
122 before the 25th day following the mailing of the notice of  
123 proposed property taxes pursuant to s. 200.069 in the year the  
124 application was filed.

125 2. Failure by a property owner or lessee to apply for a  
126 classification as working waterfront property by March 1 shall  
127 constitute a waiver for 1 year of the privilege granted in this  
128 section. However, a person who is qualified to receive a working  
129 waterfront classification but who fails to timely apply for  
130 classification may file an application for classification with  
131 the property appraiser. Upon review of the application, if the  
132 applicant is qualified to receive the classification and  
133 demonstrates particular extenuating circumstances that warrant  
134 the classification, the property appraiser may grant the  
135 classification.

136 3. A county, at the request of the property appraiser and  
137 by a majority vote of its governing body, may waive the  
138 requirement that an annual application or short form be filed  
139 with the property appraiser for renewal of the classification of  
140 property within the county as working waterfront property. Such

141 waiver may be revoked by a majority of the county governing  
142 body.

143 4. Notwithstanding subparagraph 2., a new application for  
144 classification as working waterfront property must be filed with  
145 the property appraiser whenever any property granted the  
146 classification as working waterfront property is sold or  
147 otherwise disposed of, whenever ownership or the lessee changes  
148 in any manner, whenever the owner or lessee ceases to use the  
149 property as working waterfront property, or whenever the status  
150 of the owner or lessee changes so as to change the classified  
151 status of the property.

152 5. The property appraiser shall remove from the  
153 classification as working waterfront property any property for  
154 which the classified use has been abandoned or discontinued, or  
155 the property has been diverted to an unclassified use. Such  
156 removed property shall be assessed at just value as provided in  
157 s. 193.011.

158 6.a. The owner of any property classified as working  
159 waterfront property who is not required to file an annual  
160 application under this section, or the lessee if the application  
161 was made by the lessee, shall notify the property appraiser  
162 promptly whenever the use of the property or the status or  
163 condition of the owner or lessee changes, so as to change the  
164 classified status of the property. If any such property owner or  
165 lessee fails to notify the property appraiser and the property  
166 appraiser determines that for any year within the prior 10 years  
167 the owner was not entitled to receive such classification, the  
168 owner of the property is subject to taxes otherwise due and

169 owing as a result of such failure plus 15 percent interest per  
170 annum and a penalty of 50 percent of the additional taxes owed.  
171 However, the penalty may be waived if the owner or lessee can  
172 demonstrate that he or she took reasonable care to properly  
173 classify the property.

174 b. The property appraiser making such determination shall  
175 record in the public records of the county in which the working  
176 waterfront property is located a notice of tax lien against any  
177 property owned by the working waterfront property owner, and  
178 such property must be identified in the notice of tax lien. Such  
179 property is subject to the payment of all taxes and penalties.  
180 Such lien, when filed, attaches to any property identified in  
181 the notice of tax lien owned by the person or entity that  
182 illegally or improperly received the classification. If such  
183 person or entity no longer owns property in that county but owns  
184 property in another county or counties in the state, the  
185 property appraiser shall record in such other county or counties  
186 a notice of tax lien identifying the property owned by the  
187 working waterfront property owner in such county or counties  
188 which shall become a lien against the identified property.

189 7. When a parcel receiving a working waterfront  
190 classification contains facilities or vacant land not eligible  
191 to be classified as a working waterfront property under this  
192 subsection, such facilities and the facilities' curtilage, as  
193 well as the vacant land, must be assessed separately as provided  
194 in s. 193.011.

195 8. The property appraiser shall have available at his or  
196 her office a list by ownership of all applications for

197 classification as working waterfront property received, showing  
198 the acreage, the full valuation under s. 193.011, the value of  
199 the land under the provisions of this subsection, and whether or  
200 not the classification was granted.

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

202 (a) The property appraiser shall notify an applicant  
203 applying for a working waterfront classification in writing of a  
204 denial of an application for such classification on or before  
205 July 1 of the year for which the application was filed. The  
206 notification shall advise the applicant of his or her right to  
207 appeal to the value adjustment board and of the appeal filing  
208 deadline.

209 (b) Any applicant whose application for classification as  
210 working waterfront property is denied by the property appraiser  
211 may appeal to the value adjustment board by filing a petition  
212 requesting that the classification be granted. The petition may  
213 be filed on or before the 25th day following the mailing of the  
214 assessment notice by the property appraiser as required under s.  
215 194.011(1). Notwithstanding the provisions of s. 194.013, the  
216 petitioner shall pay a nonrefundable fee of \$15 upon filing the  
217 petition. Upon the value adjustment board's review of the  
218 petition, if the petitioner is qualified to receive the  
219 classification and demonstrates particular extenuating  
220 circumstances which warrant granting the classification, the  
221 value adjustment board may grant the petition and  
222 classification.



223 (c) A denial of a petition for classification by the value  
 224 adjustment board may be appealed to a court of competent  
 225 jurisdiction.

226 (d)1. Property that has received a working waterfront  
 227 classification from the value adjustment board or a court of  
 228 competent jurisdiction under this subsection is entitled to  
 229 receive such classification in any subsequent year until such  
 230 use is changed, abandoned, or discontinued, or the ownership  
 231 changes in any manner as provided in subparagraph (2)(c)4. The  
 232 property appraiser shall, no later than January 31 of each year,  
 233 provide notice to the property owner or lessee receiving a  
 234 classification under this subsection requiring the property  
 235 owner or lessee qualified to make application to certify that  
 236 the ownership and the use of the property has not changed. The  
 237 department shall prescribe by rule the form of the notice to be  
 238 used by the property appraiser.

239 2. If a county has waived the requirement that an annual  
 240 application or short form be filed for classification of the  
 241 property under subsection (2), the county may, by majority vote  
 242 of its governing body, waive the notice and certification  
 243 requirements of this paragraph and shall provide the property  
 244 owner or lessee with the same notification as provided to  
 245 property owners granted a working waterfront classification by  
 246 the property appraiser. Such waiver may be revoked by a majority  
 247 vote of the county governing body.

248 Section 2. This act shall take effect October 1, 2009, and  
 249 shall apply to assessments beginning January 1, 2010.