

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Adams offered the following:

2

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 193.704, Florida Statutes, is created

6 to read:

7 193.704 Working waterfront property; definitions;
8 classification and assessment; denial of classification and
9 appeal.-

10 (1) DEFINITIONS.-For purposes of granting a working
11 waterfront property classification under this section for
12 January 1, 2011, and thereafter, the term:

13 (a) "Accessible to the public" means routinely available
14 to the public from sunrise to sunset, with or without charge,
15 with appropriate accommodations, including, but not limited to,

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16 public parking or public boat ramps that are available for use
17 by the general public.

18 (b) "Commercial fishing facility" means docks, piers,
19 processing houses, or other facilities that support a commercial
20 fishing operation or an aquaculture operation certified under
21 chapter 597.

22 (c) "Commercial fishing operation" has the same meaning as
23 that provided in s. 379.2351.

24 (d) "Drystack" means a licensed commercial vessel storage
25 facility or building in which storage spaces for vessels are
26 available for use by the public on a first-come, first-served
27 basis. The term excludes storage that is purchased, received, or
28 rented as a result of homeownership or tenancy.

29 (e) "Land used predominantly for commercial fishing
30 purposes" means land used in good faith in a for-profit
31 commercial fishing operation for the taking or harvesting of
32 freshwater fish or saltwater products, as defined in s. 379.101,
33 for which a commercial license to take, harvest, or sell such
34 fish or products is required under chapter 379, or land used in
35 an aquaculture operation certified under chapter 597.

36 (f) "Marina" means a licensed commercial facility that
37 provides open-to-the-public dockage, moorings, or drystacks for
38 vessels on a first-come, first-served basis. The term excludes
39 dockage, mooring, or storage that is purchased, received, or
40 rented as a result of homeownership or tenancy.

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

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43 (h) "Marine vessel construction and repair facility" means
44 a facility that constructs and repairs vessels that travel over
45 waters that are navigable, including, but not limited to,
46 shipyards and boatyards.

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

49 (j) "Repair" includes retrofitting and maintenance of
50 vessels.

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

55 (l) "Water-dependent" means that the activities performed
56 in the facility can be conducted only on, in, over, or adjacent
57 to waters that are navigable, require direct access to water,
58 and involve the use of water as an integral part of such
59 activity.

60 (m) "Waterfront" means property that is on, over, or
61 abutting waters that are navigable.

62 (n) "Waters that are navigable" means water bodies that
63 are capable of supporting boating and that are used or may be
64 used in their ordinary condition as highways for commerce for
65 which trade or travel are or may be conducted in the customary
66 modes of trade or travel on water.

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

68 (a) The following waterfront properties are eligible for
69 classification as working waterfront property:

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- 1. Land used predominantly for commercial fishing purposes.
- 2. Land that is accessible to the public and used for vessel launches into waters that are navigable.
- 3. Marinas and drystacks that are open to the public.
- 4. Water-dependent marine manufacturing facilities.
- 5. Water-dependent commercial fishing facilities.
- 6. Water-dependent marine vessel construction and repair facilities and their support facilities.

(b) Property classified as working waterfront property under this section shall be assessed on the basis of current use.

1. If the income approach to value is appropriate to the property and if adequate local data on comparable rental rates, expense rates, and vacancy rates are available to the property appraiser, the assessed value shall be established using the income approach to value, using an overall capitalization rate based upon the debt coverage ratio formula, adjusted for the effective tax rate. The overall capitalization rate shall be calculated annually and shall be based on local data.

2. If the conditions required for assessment under subparagraph 1. are not satisfied, the property appraiser shall value the property at its present cash value as if it were required to remain in its current use into the foreseeable future.

3. In no event may the assessed value of the property exceed just value.

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97 4. If a parcel contains both uses eligible for assessment
98 under this section and uses that are not eligible for assessment
99 under this section, those portions of the property that are not
100 eligible for assessment under this section must be assessed
101 separately as otherwise provided by this chapter.

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

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124 2. Any property owner or lessee who fails to file an
125 application for classification as working waterfront property by
126 March 1 may file an application for classification with the
127 property appraiser on or before the 25th day following the
128 mailing of the notice of proposed property taxes pursuant to s.
129 200.069. Upon review of the application, if the applicant is
130 qualified to receive the classification and demonstrates
131 particular extenuating circumstances that warrant the
132 classification, the property appraiser may grant the
133 classification.

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

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

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

156 6.a. The owner of any property classified as working
157 waterfront property who is not required to file an annual
158 application under this section, and the lessee if the
159 application was made by the lessee, shall notify the property
160 appraiser promptly whenever the use of the property or the
161 status or condition of the owner or lessee changes, so as to
162 change the classified status of the property. If any such
163 property owner or lessee fails to notify the property appraiser
164 and the property appraiser determines that for any year within
165 the prior 10 years the owner was not entitled to receive such
166 classification, the owner of the property is subject to taxes
167 otherwise due and owing as a result of such failure plus 15
168 percent interest per annum and a penalty of 50 percent of the
169 additional taxes owed. However, the penalty may be waived if the
170 owner or lessee can demonstrate that he or she took reasonable
171 care to notify the property appraiser of the change in use,
172 status, or condition of the property.

173 b. The property appraiser making such determination shall
174 record in the public records of the county in which the working
175 waterfront property is located a notice of tax lien against any
176 property owned by the working waterfront property owner, and
177 such property must be identified in the notice of tax lien. Such
178 property is subject to the payment of all taxes and penalties.
179 Such lien, when filed, attaches to any property identified in

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180 the notice of tax lien owned by the person or entity that
181 illegally or improperly received the classification. If such
182 person or entity no longer owns property in that county but owns
183 property in another county or counties in the state, the
184 property appraiser shall record in such other county or counties
185 a notice of tax lien identifying the property owned by the
186 working waterfront property owner in such county or counties,
187 which shall become a lien against the identified property.

188 7. The property appraiser shall have available at his or
189 her office a list by ownership of all applications received for
190 classification of property as working waterfront property,
191 showing the acreage, the just value under s. 193.011, the value
192 of the land under the provisions of this subsection, and whether
193 the classification was granted.

194 (3) DENIAL OF CLASSIFICATION; APPEAL.—

195 (a) The property appraiser shall notify an applicant for a
196 working waterfront classification in writing of a denial of an
197 application for such classification on or before July 1 of the
198 year for which the application was filed. The notification shall
199 advise the applicant of his or her right to appeal to the value
200 adjustment board and of the appeal filing deadline.

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

215 (c) A denial of a petition for classification by the value
216 adjustment board may be appealed to a court of competent
217 jurisdiction.

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

231 2. If a county has waived the requirement that an annual
232 application or short form be filed for classification of the
233 property under subsection (2), the county may, by majority vote
234 of its governing body, waive the notice and certification
235 requirements of this paragraph and shall provide the property

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236 owner or lessee with the same notification as provided to
237 property owners granted a working waterfront classification by
238 the property appraiser. Such waiver may be revoked by a majority
239 vote of the county governing body.

240 Section 2. Subsection (1) of section 195.073, Florida
241 Statutes, is amended to read:

242 195.073 Classification of property.—All items required by
243 law to be on the assessment rolls must receive a classification
244 based upon the use of the property. The department shall
245 promulgate uniform definitions for all classifications. The
246 department may designate other subclassifications of property.
247 No assessment roll may be approved by the department which does
248 not show proper classifications.

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

251 (a) Residential, subclassified into categories, one
252 category for homestead property and one for nonhomestead
253 property:

- 254 1. Single family.
- 255 2. Mobile homes.
- 256 3. Multifamily.
- 257 4. Condominiums.
- 258 5. Cooperatives.
- 259 6. Retirement homes.

260 (b) Commercial and industrial.

261 (c) Agricultural.

262 (d) Nonagricultural acreage.

263 (e) High-water recharge.

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264 (f) Historic property used for commercial or certain
265 nonprofit purposes.

266 (g) Exempt, wholly or partially.

267 (h) Centrally assessed.

268 (i) Leasehold interests.

269 (j) Time-share property.

270 (k) Land assessed under s. 193.501.

271 (l) Working waterfront property.

272 (m) ~~(l)~~ Other.

273 Section 3. The Department of Revenue may adopt emergency
274 rules to administer s. 193.704, Florida Statutes, as created by
275 this act. The emergency rules shall remain in effect for 6
276 months after adoption and may be renewed during the pendency of
277 procedures to adopt rules addressing the subject of the
278 emergency rules.

279 Section 4. This act shall take effect upon becoming a law,
280 and applies retroactively to January 1, 2010. For the 2010
281 calendar year, an application for classification of property as
282 working waterfront must be filed on or before July 1, rather
283 than on or before March 1.

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T I T L E A M E N D M E N T

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288 Remove the entire title and insert:

289 A bill to be entitled

290 An act relating to working waterfront property; creating
291 s. 193.704, F.S.; providing definitions; specifying

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292 properties that are eligible for classification as working
293 waterfront property; requiring the assessment of working
294 waterfront property based on current use; specifying a
295 methodology for determining assessed value; requiring
296 property appraisers to consider specified factors in
297 assessing certain property; providing for assessment of a
298 portion of property within a working waterfront property
299 which is not used as working waterfront property;
300 requiring an application for classification of property as
301 working waterfront property; specifying application
302 requirements; authorizing a property appraiser to approve
303 an application not filed by a certain deadline due to
304 extenuating circumstances; providing for waiver of annual
305 application requirements; providing for loss of
306 classification upon a change of ownership or use;
307 requiring property owners to notify the property appraiser
308 of changes in use or ownership of property; imposing a
309 penalty for failure to notify the property appraiser of an
310 event resulting in the unlawful or improper classification
311 of property as working waterfront property; requiring
312 imposition of tax liens to recover penalties and interest;
313 requiring property appraisers to make a list relating to
314 applications to certify property as working waterfront
315 property; providing an appeal process for applications
316 that have been denied; amending s. 195.073, F.S.;
317 providing for the classification of land as working
318 waterfront property on an assessment roll; providing
319 emergency rulemaking authority; providing for retroactive

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320 application; providing an alternate application date for
321 2010; providing an effective date.

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