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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/07/2010	.	
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The Committee on Community Affairs (Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause 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) INTENT.—The Legislature recognizes that Florida's traditional working waterfronts are important to the state's heritage and economic vitality and that the conversion of



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13 working waterfronts to exclusively private uses limits public  
14 access to the state's waterways for recreational boating,  
15 fishing, and other commercial water-dependent activities. The  
16 Legislature also recognizes that the conversion of traditional  
17 working waterfronts to exclusively private uses often causes an  
18 increase in property taxes on nearby working waterfronts when  
19 these waterfronts are assessed at their highest and best use. It  
20 is the intent of the Legislature that working waterfront  
21 property, including water-dependent commercial transportation  
22 facilities and their water-dependent support facilities, be  
23 assessed at the property's current use, as provided by s. 4(j),  
24 Art. VII of the State Constitution.

25 (1) DEFINITIONS.—As used in this section, the term:

26 (a) "Accessible to the public" means routinely available to  
27 the public from sunrise to sunset, with or without charge, and  
28 having appropriate accommodations, including, but not limited  
29 to, public parking or public boat ramps that are available for  
30 use by the general public.

31 (b) "Commercial fishing facility" means docks, piers,  
32 processing houses, or other facilities that support a commercial  
33 fishing operation or an aquaculture operation certified under  
34 chapter 597.

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

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



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42           (e) "Land used predominantly for commercial fishing  
43 purposes" means land used in good faith in a for-profit  
44 commercial fishing operation for the taking or harvesting of  
45 freshwater fish or saltwater products, as defined in s. 379.101,  
46 for which a commercial license to take, harvest, or sell such  
47 fish or products is required under chapter 379, or land used in  
48 an aquaculture operation certified under chapter 597.

49           (f) "Marina" means a licensed commercial facility that  
50 provides secured public docks or moorings or drystackes for  
51 vessels on a first-come, first-served basis. The term excludes  
52 dockage, mooring, or storage that is purchased, received, or  
53 rented as a result of homeownership or tenancy.

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

56           (h) "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.

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

62           (j) "Repair" includes retrofitting and maintenance of  
63 vessels.

64           (k) "Right of way" has the same meaning as provided in s.  
65 334.03.

66           (l) "Support facility" means a facility that typically is  
67 collocated with marine vessel construction and repair  
68 facilities, including, but not limited to, shops, equipment, and  
69 salvage facilities.

70           (m) "Water-dependent" means that the activities performed



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71 in the facility can be conducted only on, in, over, or adjacent  
72 to waters that are navigable, require direct access to water,  
73 and involve the use of water as an integral part of such  
74 activity.

75 (n) "Waterfront" means property that is on, over, or  
76 abutting waters that are navigable. Property that is separated  
77 from property abutting waters that are navigable by a right-of-  
78 way may be considered waterfront property, if:

79 1. The properties on both sides of the right-of-way are  
80 under common ownership;

81 2. The properties on both sides of the right-of-way are  
82 part of the same business enterprise;

83 3. The property that is separated from the water by the  
84 right-of-way has direct access to the water by crossing the  
85 right-of-way.

86 (o) "Waters that are navigable" means water bodies that are  
87 capable of supporting boating and that are used or may be used  
88 in their ordinary condition as highways for commerce for which  
89 trade or travel are or may be conducted in the customary modes  
90 of trade or travel on water.

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

92 (a) The following waterfront properties are eligible for  
93 classification as working waterfront property:

94 1. Land used predominantly for commercial fishing purposes.

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

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

98 4. Water-dependent marine manufacturing facilities.

99 5. Water-dependent commercial fishing facilities.



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100           6. Water-dependent marine vessel construction and repair  
101 facilities and their support facilities.

102           7. Water-dependent facilities used for the commercial  
103 transportation of goods and people.

104           8. Water-dependent facilities used for activities that  
105 support the commercial transportation of goods and people. These  
106 activities include, but are not limited to, towing, storage, and  
107 salvage.

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

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

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

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

126           4. If a parcel contains both uses eligible for assessment  
127 under this section and uses that are not eligible for assessment  
128 under this section, those portions of the property that are not



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129 eligible for assessment under this section must be assessed  
130 separately as otherwise provided by this chapter.

131 (c)1. Property may not be classified as working waterfront  
132 property unless an application for such classification is filed  
133 with the property appraiser on or before March 1 of each year in  
134 the county in which the property is located. Before approving  
135 such classification, the property appraiser may require the  
136 applicant to establish that the property is actually used as  
137 required under this section. The property appraiser may require  
138 the applicant to furnish the property appraiser such information  
139 as may reasonably be required to establish that such property  
140 was actually used for working waterfront purposes and to  
141 establish the classified use value of the property, including  
142 income and expense data. The owner or lessee of property  
143 classified as working waterfront property in the prior year may  
144 reapply on a short form provided by the department. The lessee  
145 of property may make original application or reapply on a short  
146 form if the lease, or an affidavit executed by the owner,  
147 provides that the lessee is empowered to make application for  
148 the working waterfront classification on behalf of the owner and  
149 a copy of the lease or affidavit accompanies the application. An  
150 applicant may withdraw an application on or before the 25th day  
151 following the mailing of the notice of proposed property taxes  
152 pursuant to s. 200.069 in the year the application was filed.

153 2. Any property owner or lessee who fails to file an  
154 application for classification as working waterfront property by  
155 March 1 may file an application for classification with the  
156 property appraiser on or before the 25th day following the  
157 mailing of the notice of proposed property taxes pursuant to s.



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158 200.069. Upon review of the application, if the applicant is  
159 qualified to receive the classification and demonstrates  
160 particular extenuating circumstances that warrant the  
161 classification, the property appraiser may grant the  
162 classification.

163 3. A county, at the request of the property appraiser and  
164 by a majority vote of its governing body, may waive the  
165 requirement that an annual application or short form be filed  
166 with the property appraiser for renewal of the classification of  
167 property within the county as working waterfront property. Such  
168 waiver may be revoked by a majority of the county governing  
169 body.

170 4. Notwithstanding subparagraph 2., a new application for  
171 classification as working waterfront property must be filed with  
172 the property appraiser whenever any property granted the  
173 classification as working waterfront property is sold or  
174 otherwise disposed of, ownership or the lessee changes in any  
175 manner, the owner or the lessee ceases to use the property as  
176 working waterfront property, or whenever the status of the owner  
177 or the lessee changes so as to change the classified status of  
178 the property.

179 5. The property appraiser shall remove from the  
180 classification as working waterfront property any property for  
181 which the classified use has been abandoned or discontinued or  
182 the property has been diverted to an unclassified use. Such  
183 removed property shall be assessed at just value as provided in  
184 s. 193.011.

185 6.a. The owner of any property classified as working  
186 waterfront property who is not required to file an annual



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187 application under this section, and the lessee if the  
188 application was made by the lessee, shall notify the property  
189 appraiser promptly whenever the use of the property or the  
190 status or condition of the owner or lessee changes, so as to  
191 change the classified status of the property. If any such  
192 property owner or lessee fails to notify the property appraiser  
193 and the property appraiser determines that for any year within  
194 the prior 10 years the owner was not entitled to receive such  
195 classification, the owner of the property is subject to taxes  
196 otherwise due and owing as a result of such failure plus 15  
197 percent interest per annum and a penalty of 50 percent of the  
198 additional taxes owed. However, the penalty may be waived if the  
199 owner or lessee can demonstrate that he or she took reasonable  
200 care to notify the property appraiser of the change in use,  
201 status, or condition of the property.

202 b. The property appraiser making such determination shall  
203 record in the public records of the county in which the working  
204 waterfront property is located a notice of tax lien against any  
205 property owned by the working waterfront property owner. Such  
206 property must be identified in the notice of tax lien. Such  
207 property is subject to the payment of all taxes and penalties.  
208 Such lien, when filed, attaches to any property identified in  
209 the notice of tax lien owned by the person or entity that  
210 illegally or improperly received the classification. If such  
211 person or entity no longer owns property in that county but owns  
212 property in another county or counties in the state, the  
213 property appraiser shall record in such other county or counties  
214 a notice of tax lien identifying the property owned by the  
215 working waterfront property owner in such county or counties,





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216 which shall become a lien against the identified property.

217 7. The property appraiser shall have available at his or  
218 her office a list by ownership of all applications received for  
219 classification of property as working waterfront property,  
220 showing the acreage, the full valuation under s. 193.011, the  
221 value of the land under the provisions of this subsection, and  
222 whether the classification was granted.

223 (3) DENIAL OF CLASSIFICATION; APPEAL.—

224 (a) If an application for working waterfront classification  
225 is made by March 1, the property appraiser shall notify the  
226 applicant in writing of a denial of the application on or before  
227 July 1 of the year for which the application was filed. The  
228 notification shall advise the applicant of his or her right to  
229 appeal to the value adjustment board and of the appeal filing  
230 deadline.

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



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245       (c) A denial of a petition for classification by the value  
246 adjustment board may be appealed to a court of competent  
247 jurisdiction.

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

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

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

272       195.073 Classification of property.—All items required by  
273 law to be on the assessment rolls must receive a classification



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274 based upon the use of the property. The department shall  
275 promulgate uniform definitions for all classifications. The  
276 department may designate other subclassifications of property.  
277 No assessment roll may be approved by the department which does  
278 not show proper classifications.

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

281 (a) Residential, subclassified into categories, one  
282 category for homestead property and one for nonhomestead  
283 property:

284 1. Single family.

285 2. Mobile homes.

286 3. Multifamily.

287 4. Condominiums.

288 5. Cooperatives.

289 6. Retirement homes.

290 (b) Commercial and industrial.

291 (c) Agricultural.

292 (d) Nonagricultural acreage.

293 (e) High-water recharge.

294 (f) Historic property used for commercial or certain  
295 nonprofit purposes.

296 (g) Exempt, wholly or partially.

297 (h) Centrally assessed.

298 (i) Leasehold interests.

299 (j) Time-share property.

300 (k) Land assessed under s. 193.501.

301 (l) Working waterfront property.

302 (m) ~~(l)~~ Other.



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303 Section 3. Subsection (2) of section 380.5105, Florida  
304 Statutes, is amended to read:

305 380.5105 The Stan Mayfield Working Waterfronts; Florida  
306 Forever program.—

307 (2) The trust and the Department of Agriculture and  
308 Consumer Services shall jointly develop rules specifically  
309 establishing an application process and a process for the  
310 evaluation, scoring and ranking of working waterfront  
311 acquisition projects. The applicant must be a municipality or  
312 county. The proposed rules jointly developed pursuant to this  
313 subsection shall be promulgated by the trust. Such rules shall  
314 ensure that the following general program objectives are  
315 considered in selecting ~~establish a system of weighted criteria~~  
316 ~~to give increased priority to~~ projects:

317 (a) That projects demonstrate a strong contribution to the  
318 preservation of Florida's commercial fishing, marine, or  
319 aquaculture industries;

320 (b) That projects are located in areas being converted or  
321 threatened with conversion to uses that are incompatible with  
322 working waterfront uses or are not marine or fishing uses;

323 (c) That projects provide a demonstrable benefit to the  
324 local or state economy leading to employment opportunities in  
325 the commercial fishing, marine, or aquaculture and related  
326 industries; and

327 (d) That projects have been utilized for commercial  
328 fishing, marine uses, or aquaculture uses or would create an  
329 opportunity for commercial fishing, marine, or aquaculture uses.

330 ~~(a) Within a municipality with a population less than~~  
331 ~~30,000;~~



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332 ~~(b) Within a municipality or area under intense growth and~~  
333 ~~development pressures, as evidenced by a number of factors,~~  
334 ~~including a determination that the municipality's growth rate~~  
335 ~~exceeds the average growth rate for the state;~~

336 ~~(c) Within the boundary of a community redevelopment agency~~  
337 ~~established pursuant to s. 163.356;~~

338 ~~(d) Adjacent to state-owned submerged lands designated as~~  
339 ~~an aquatic preserve identified in s. 258.39; or~~

340 ~~(e) That provide a demonstrable benefit to the local~~  
341 ~~economy.~~

342 Section 4. The Department of Revenue may adopt emergency  
343 rules to administer s. 193.704, Florida Statutes, as created by  
344 this act. The emergency rules shall remain in effect for 6  
345 months after adoption and may be renewed during the pendency of  
346 procedures to adopt rules addressing the subject of the  
347 emergency rules.

348 Section 5. If any provision of this act or the application  
349 thereof to any person or circumstance is held invalid, the  
350 invalidity does not affect other provisions or applications of  
351 the act which can be given effect without the invalid provision  
352 or application, and to this end the provisions of this act are  
353 severable.

354 Section 6. This act shall take effect upon becoming a law,  
355 and applies retroactively to January 1, 2010. For the 2010  
356 calendar year, an application for classification as working  
357 waterfront must be filed on or before July 1, rather than on or  
358 before March 1.

359  
360 ===== T I T L E A M E N D M E N T =====



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361 And the title is amended as follows:

362 Delete everything before the enacting clause  
363 and insert:

364 A bill to be entitled

365 An act relating to working waterfront property;  
366 creating s. 193.704, F.S.; providing definitions;  
367 specifying properties that are eligible for  
368 classification as working waterfront property;  
369 requiring the assessment of working waterfront  
370 property based on current use; specifying a  
371 methodology for determining assessed value; requiring  
372 property appraisers to consider specified factors in  
373 assessing certain property; providing for assessment  
374 of a portion of property within a working waterfront  
375 property which is not used as working waterfront  
376 property; requiring an application for classification  
377 of property as working waterfront property; specifying  
378 application requirements; authorizing a property  
379 appraiser to approve an application not filed by a  
380 certain deadline due to extenuating circumstances;  
381 providing for waiver of annual application  
382 requirements; providing for loss of classification  
383 upon a change of ownership or use; requiring property  
384 owners to notify the property appraiser of changes in  
385 use or ownership of property; imposing a penalty for  
386 failure to notify the property appraiser of an event  
387 resulting in the unlawful or improper classification  
388 of property as working waterfront property; requiring  
389 imposition of tax liens to recover penalties and



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390 interest; requiring property appraisers to make a list  
391 relating to applications to certify property as  
392 working waterfront property; providing an appeal  
393 process for applications that have been denied;  
394 amending s. 195.073, F.S.; providing for the  
395 classification of land as working waterfront property  
396 on an assessment roll; amending s. 380.5105, F.S.;  
397 providing new program objectives for the Stan Mayfield  
398 Working Waterfronts Program and the Florida Forever  
399 Program which are to be considered in selecting  
400 projects; providing emergency rulemaking authority;  
401 providing for severability; providing for retroactive  
402 application; specifying the date to apply for a  
403 working waterfront classification for 2010; providing  
404 an effective date.