

By the Committees on Finance and Tax; and Finance and Tax

593-04857-10

20101408c1

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

593-04857-10

20101408c1

30 process for applications that have been denied;  
31 amending s. 195.073, F.S.; providing for the  
32 classification of land as working waterfront property  
33 on an assessment roll; amending s. 380.5105, F.S.;  
34 providing new program objectives for the Stan Mayfield  
35 Working Waterfronts Program and the Florida Forever  
36 Program which are to be considered in selecting  
37 projects; providing emergency rulemaking authority;  
38 providing for severability; providing for retroactive  
39 application; specifying the date to apply for a  
40 working waterfront classification for 2010; providing  
41 effective dates.

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;  
48 classification and assessment; denial of classification and  
49 appeal.-

50 (1) INTENT.-The Legislature recognizes that Florida's  
51 traditional working waterfronts are important to the state's  
52 heritage and economic vitality and that the conversion of  
53 working waterfronts to exclusively private uses limits public  
54 access to the state's waterways for recreational boating,  
55 fishing, and other commercial water-dependent activities. The  
56 Legislature also recognizes that the conversion of traditional  
57 working waterfronts to exclusively private uses often causes an  
58 increase in property taxes on nearby working waterfronts when

593-04857-10

20101408c1

59 these waterfronts are assessed at their highest and best use. It  
60 is the intent of the Legislature that working waterfront  
61 property, including water-dependent commercial transportation  
62 facilities and their water-dependent support facilities, be  
63 assessed at the property's current use, as provided by s. 4(j),  
64 Art. VII of the State Constitution.

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

66 (a) "Accessible to the public" means routinely available to  
67 the public from sunrise to sunset, with or without charge, and  
68 having appropriate accommodations, including, but not limited  
69 to, public parking or public boat ramps that are available for  
70 use by the general public.

71 (b) "Commercial fishing facility" means docks, piers,  
72 processing houses, or other facilities that support a commercial  
73 fishing operation or an aquaculture operation certified under  
74 chapter 597.

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

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

82 (e) "Land used predominantly for commercial fishing  
83 purposes" means land used in good faith in a for-profit  
84 commercial fishing operation for the taking or harvesting of  
85 freshwater fish or saltwater products, as defined in s. 379.101,  
86 for which a commercial license to take, harvest, or sell such  
87 fish or products is required under chapter 379, or land used in

593-04857-10

20101408c1

88 an aquaculture operation certified under chapter 597.

89 (f) "Marina" means a licensed commercial facility that  
90 provides secured public docks or moorings or drystacks for  
91 vessels on a first-come, first-served basis. The term excludes  
92 dockage, mooring, or storage that is purchased, received, or  
93 rented as a result of homeownership or tenancy.

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

96 (h) "Marine vessel construction and repair facility" means  
97 a facility that constructs and repairs vessels that travel over  
98 waters that are navigable, including, but not limited to,  
99 shipyards and boatyards.

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

102 (j) "Repair" includes retrofitting and maintenance of  
103 vessels.

104 (k) "Right of way" has the same meaning as provided in s.  
105 334.03.

106 (l) "Support facility" means a facility that typically is  
107 collocated with marine vessel construction and repair  
108 facilities, including, but not limited to, shops, equipment, and  
109 salvage facilities.

110 (m) "Water-dependent" means that the activities performed  
111 in the facility can be conducted only on, in, over, or adjacent  
112 to waters that are navigable, require direct access to water,  
113 and involve the use of water as an integral part of such  
114 activity.

115 (n) "Waterfront" means property that is on, over, or  
116 abutting waters that are navigable. Property that is separated

593-04857-10

20101408c1

117 from property abutting waters that are navigable by a right-of-  
118 way may be considered waterfront property, if:

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

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

123 3. The property that is separated from the water by the  
124 right-of-way has direct access to the water by crossing the  
125 right-of-way.

126 (o) "Waters that are navigable" means water bodies that are  
127 capable of supporting boating and that are used or may be used  
128 in their ordinary condition as highways for commerce for which  
129 trade or travel are or may be conducted in the customary modes  
130 of trade or travel on water.

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

132 (a) The following waterfront properties are eligible for  
133 classification as working waterfront property:

134 1. Land used predominantly for commercial fishing purposes.

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

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

138 4. Water-dependent marine manufacturing facilities.

139 5. Water-dependent commercial fishing facilities.

140 6. Water-dependent marine vessel construction and repair  
141 facilities and their support facilities.

142 7. Water-dependent facilities used for the commercial  
143 transportation of goods and people.

144 8. Water-dependent facilities used for activities that  
145 support the commercial transportation of goods and people. These

593-04857-10

20101408c1

146 activities include, but are not limited to, towing, storage, and  
147 salvage.

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

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

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

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

166 4. If a parcel contains both uses eligible for assessment  
167 under this section and uses that are not eligible for assessment  
168 under this section, those portions of the property that are not  
169 eligible for assessment under this section must be assessed  
170 separately as otherwise provided by this chapter.

171 (c)1. Property may not be classified as working waterfront  
172 property unless an application for such classification is filed  
173 with the property appraiser on or before March 1 of each year in  
174 the county in which the property is located. Before approving

593-04857-10

20101408c1

175 such classification, the property appraiser may require the  
176 applicant to establish that the property is actually used as  
177 required under this section. The property appraiser may require  
178 the applicant to furnish the property appraiser such information  
179 as may reasonably be required to establish that such property  
180 was actually used for working waterfront purposes and to  
181 establish the classified use value of the property, including  
182 income and expense data. The owner or lessee of property  
183 classified as working waterfront property in the prior year may  
184 reapply on a short form provided by the department. The lessee  
185 of property may make original application or reapply on a short  
186 form if the lease, or an affidavit executed by the owner,  
187 provides that the lessee is empowered to make application for  
188 the working waterfront classification on behalf of the owner and  
189 a copy of the lease or affidavit accompanies the application. An  
190 applicant may withdraw an application on or before the 25th day  
191 following the mailing of the notice of proposed property taxes  
192 pursuant to s. 200.069 in the year the application was filed.

193 2. Any property owner or lessee who fails to file an  
194 application for classification as working waterfront property by  
195 March 1 may file an application for classification with the  
196 property appraiser on or before the 25th day following the  
197 mailing of the notice of proposed property taxes pursuant to s.  
198 200.069. Upon review of the application, if the applicant is  
199 qualified to receive the classification and demonstrates  
200 particular extenuating circumstances that warrant the  
201 classification, the property appraiser may grant the  
202 classification.

203 3. A county, at the request of the property appraiser and

593-04857-10

20101408c1

204 by a majority vote of its governing body, may waive the  
205 requirement that an annual application or short form be filed  
206 with the property appraiser for renewal of the classification of  
207 property within the county as working waterfront property. Such  
208 waiver may be revoked by a majority of the county governing  
209 body.

210 4. Notwithstanding subparagraph 2., a new application for  
211 classification as working waterfront property must be filed with  
212 the property appraiser whenever any property granted the  
213 classification as working waterfront property is sold or  
214 otherwise disposed of, ownership or the lessee changes in any  
215 manner, the owner or the lessee ceases to use the property as  
216 working waterfront property, or whenever the status of the owner  
217 or the lessee changes so as to change the classified status of  
218 the property.

219 5. The property appraiser shall remove from the  
220 classification as working waterfront property any property for  
221 which the classified use has been abandoned or discontinued or  
222 the property has been diverted to an unclassified use. Such  
223 removed property shall be assessed at just value as provided in  
224 s. 193.011.

225 6.a. The owner of any property classified as working  
226 waterfront property who is not required to file an annual  
227 application under this section, and the lessee if the  
228 application was made by the lessee, shall notify the property  
229 appraiser promptly whenever the use of the property or the  
230 status or condition of the owner or lessee changes, so as to  
231 change the classified status of the property. If any such  
232 property owner or lessee fails to notify the property appraiser



593-04857-10

20101408c1

233 and the property appraiser determines that for any year within  
234 the prior 10 years the owner was not entitled to receive such  
235 classification, the owner of the property is subject to taxes  
236 otherwise due and owing as a result of such failure plus 15  
237 percent interest per annum and a penalty of 50 percent of the  
238 additional taxes owed. However, the penalty may be waived if the  
239 owner or lessee can demonstrate that he or she took reasonable  
240 care to notify the property appraiser of the change in use,  
241 status, or condition of the property.

242 b. The property appraiser making such determination shall  
243 record in the public records of the county in which the working  
244 waterfront property is located a notice of tax lien against any  
245 property owned by the working waterfront property owner. Such  
246 property must be identified in the notice of tax lien. Such  
247 property is subject to the payment of all taxes and penalties.  
248 Such lien, when filed, attaches to any property identified in  
249 the notice of tax lien owned by the person or entity that  
250 illegally or improperly received the classification. If such  
251 person or entity no longer owns property in that county but owns  
252 property in another county or counties in the state, the  
253 property appraiser shall record in such other county or counties  
254 a notice of tax lien identifying the property owned by the  
255 working waterfront property owner in such county or counties,  
256 which shall become a lien against the identified property.

257 7. The property appraiser shall have available at his or  
258 her office a list by ownership of all applications received for  
259 classification of property as working waterfront property,  
260 showing the acreage, the full valuation under s. 193.011, the  
261 value of the land under the provisions of this subsection, and

593-04857-10

20101408c1

262 whether the classification was granted.

263 (3) DENIAL OF CLASSIFICATION; APPEAL.-

264 (a) If an application for working waterfront classification  
265 is made by March 1, the property appraiser shall notify the  
266 applicant in writing of a denial of the application on or before  
267 July 1 of the year for which the application was filed. The  
268 notification shall advise the applicant of his or her right to  
269 appeal to the value adjustment board and of the appeal filing  
270 deadline.

271 (b) Any applicant whose application for classification as  
272 working waterfront property is denied by the property appraiser  
273 may appeal to the value adjustment board by filing a petition  
274 requesting that the classification be granted. The petition may  
275 be filed on or before the 25th day following the mailing of the  
276 assessment notice by the property appraiser as required under s.  
277 194.011(1). Notwithstanding the provisions of s. 194.013, the  
278 petitioner shall pay a nonrefundable fee of \$15 upon filing the  
279 petition. Upon the value adjustment board's review of the  
280 petition, if the petitioner is qualified to receive the  
281 classification and demonstrates particular extenuating  
282 circumstances that warrant granting the classification, the  
283 value adjustment board may grant the petition and  
284 classification.

285 (c) A denial of a petition for classification by the value  
286 adjustment board may be appealed to a court of competent  
287 jurisdiction.

288 (d)1. Property that has received a working waterfront  
289 classification from the value adjustment board or a court of  
290 competent jurisdiction under this subsection is entitled to

593-04857-10

20101408c1

291 receive such classification in any subsequent year until such  
292 use is changed, abandoned, or discontinued or the ownership  
293 changes in any manner as provided in subparagraph (2) (c)4. The  
294 property appraiser shall, no later than January 31 of each year,  
295 provide notice to the property owner or lessee receiving a  
296 classification under this subsection requiring the property  
297 owner or a lessee qualified to make application to certify that  
298 the ownership and the use of the property has not changed. The  
299 department shall prescribe by rule the form of the notice to be  
300 used by the property appraiser.

301 2. If a county has waived the requirement that an annual  
302 application or short form be filed for classification of the  
303 property under subsection (2), the county may, by majority vote  
304 of its governing body, waive the notice and certification  
305 requirements of this paragraph and shall provide the property  
306 owner or lessee with the same notification as provided to  
307 property owners granted a working waterfront classification by  
308 the property appraiser. Such waiver may be revoked by a majority  
309 vote of the county governing body.

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

312 195.073 Classification of property.—All items required by  
313 law to be on the assessment rolls must receive a classification  
314 based upon the use of the property. The department shall  
315 promulgate uniform definitions for all classifications. The  
316 department may designate other subclassifications of property.  
317 No assessment roll may be approved by the department which does  
318 not show proper classifications.

319 (1) Real property must be classified according to the

593-04857-10

20101408c1

320 assessment basis of the land into the following classes:

321 (a) Residential, subclassified into categories, one  
322 category for homestead property and one for nonhomestead  
323 property:

324 1. Single family.

325 2. Mobile homes.

326 3. Multifamily.

327 4. Condominiums.

328 5. Cooperatives.

329 6. Retirement homes.

330 (b) Commercial and industrial.

331 (c) Agricultural.

332 (d) Nonagricultural acreage.

333 (e) High-water recharge.

334 (f) Historic property used for commercial or certain  
335 nonprofit purposes.

336 (g) Exempt, wholly or partially.

337 (h) Centrally assessed.

338 (i) Leasehold interests.

339 (j) Time-share property.

340 (k) Land assessed under s. 193.501.

341 (l) Working waterfront property.

342 (m) ~~(l)~~ Other.

343 Section 3. Effective July 1, 2010, subsection (2) of  
344 section 380.5105, Florida Statutes, is amended to read:

345 380.5105 The Stan Mayfield Working Waterfronts; Florida  
346 Forever program.—

347 (2) The trust and the Department of Agriculture and  
348 Consumer Services shall jointly develop rules specifically

593-04857-10

20101408c1

349 establishing an application process and a process for the  
350 evaluation, scoring and ranking of working waterfront  
351 acquisition projects. The proposed rules jointly developed  
352 pursuant to this subsection shall be adopted ~~promulgated~~ by the  
353 trust. Such rules shall ensure that the following general  
354 program objectives are considered in selecting ~~establish a~~  
355 ~~system of weighted criteria to give increased priority to~~  
356 projects:

357 (a) That projects demonstrate a strong contribution to the  
358 preservation of this state's commercial fishing, marine, or  
359 aquaculture industries. ~~Within a municipality with a population~~  
360 ~~less than 30,000;~~

361 (b) That projects are located in areas being converted or  
362 threatened with conversion to uses that are incompatible with  
363 working waterfront uses or are not marine or fishing uses.  
364 ~~Within a municipality or area under intense growth and~~  
365 ~~development pressures, as evidenced by a number of factors,~~  
366 ~~including a determination that the municipality's growth rate~~  
367 ~~exceeds the average growth rate for the state;~~

368 (c) That projects provide a demonstrable benefit to the  
369 local or state economy leading to employment opportunities in  
370 commercial fishing, marine, aquaculture, and related industries.  
371 ~~Within the boundary of a community redevelopment agency~~  
372 ~~established pursuant to s. 163.356;~~

373 (d) That projects have been used for commercial fishing,  
374 marine, or aquaculture purposes or would create an opportunity  
375 to be used for commercial fishing, marine, or aquaculture  
376 purposes. ~~Adjacent to state-owned submerged lands designated as~~  
377 ~~an aquatic preserve identified in s. 258.39; or~~

593-04857-10

20101408c1

378       ~~(e) That provide a demonstrable benefit to the local~~  
379 ~~economy.~~

380       Section 4. The Department of Revenue may adopt emergency  
381 rules to administer s. 193.704, Florida Statutes, as created by  
382 this act. The emergency rules shall remain in effect for 6  
383 months after adoption and may be renewed during the pendency of  
384 procedures to adopt rules addressing the subject of the  
385 emergency rules.

386       Section 5. If any provision of this act or the application  
387 thereof to any person or circumstance is held invalid, the  
388 invalidity does not affect other provisions or applications of  
389 the act which can be given effect without the invalid provision  
390 or application, and to this end the provisions of this act are  
391 severable.

392       Section 6. Except as otherwise expressly provided in this  
393 act, this act shall take effect upon becoming a law, and applies  
394 retroactively to January 1, 2010. For the 2010 calendar year, an  
395 application for classification of property as working waterfront  
396 must be filed on or before July 1, rather than on or before  
397 March 1.