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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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The Committee on Finance and Tax (Storms) 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) DEFINITIONS.—For purposes of granting a working waterfront property classification under this section for January 1, 2011, and thereafter, the term:



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



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42 manufactures vessels for use in waters that are navigable.

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 are  
63 capable of supporting boating and that are used or may be used  
64 in their ordinary condition as highways for commerce for which  
65 trade or travel are or may be conducted in the customary modes  
66 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:

70 1. Land used predominantly for commercial fishing purposes.



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

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

74           4. Water-dependent marine manufacturing facilities.

75           5. Water-dependent commercial fishing facilities.

76           6. Water-dependent marine vessel construction and repair  
77 facilities and their support facilities.

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

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

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

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

96           4. If a parcel contains both uses eligible for assessment  
97 under this section and uses that are not eligible for assessment  
98 under this section, those portions of the property that are not  
99 eligible for assessment under this section must be assessed



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100 separately as otherwise provided by this chapter.

101 (c)1. Property may not be classified as working waterfront  
102 property unless an application for such classification is filed  
103 with the property appraiser on or before March 1 of each year in  
104 the county in which the property is located. Before approving  
105 such classification, the property appraiser may require the  
106 applicant to establish that the property is actually used as  
107 required under this section. The property appraiser may require  
108 the applicant to furnish the property appraiser such information  
109 as may reasonably be required to establish that such property  
110 was actually used for working waterfront purposes and to  
111 establish the classified use value of the property, including  
112 income and expense data. The owner or lessee of property  
113 classified as working waterfront property in the prior year may  
114 reapply on a short form provided by the department. The lessee  
115 of property may make original application or reapply on a short  
116 form if the lease, or an affidavit executed by the owner,  
117 provides that the lessee is empowered to make application for  
118 the working waterfront classification on behalf of the owner and  
119 a copy of the lease or affidavit accompanies the application. An  
120 applicant may withdraw an application on or before the 25th day  
121 following the mailing of the notice of proposed property taxes  
122 pursuant to s. 200.069 in the year the application was filed.

123 2. Any property owner or lessee who fails to file an  
124 application for classification as working waterfront property by  
125 March 1 may file an application for classification with the  
126 property appraiser on or before the 25th day following the  
127 mailing of the notice of proposed property taxes pursuant to s.  
128 200.069. Upon review of the application, if the applicant is



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129 qualified to receive the classification and demonstrates  
130 particular extenuating circumstances that warrant the  
131 classification, the property appraiser may grant the  
132 classification.

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

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

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

155 6.a. The owner of any property classified as working  
156 waterfront property who is not required to file an annual  
157 application under this section, and the lessee if the



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

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



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

193           (3) DENIAL OF CLASSIFICATION; APPEAL.-

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

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

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





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216 jurisdiction.

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

230 2. If a county has waived the requirement that an annual  
231 application or short form be filed for classification of the  
232 property under subsection (2), the county may, by majority vote  
233 of its governing body, waive the notice and certification  
234 requirements of this paragraph and shall provide the property  
235 owner or lessee with the same notification as provided to  
236 property owners granted a working waterfront classification by  
237 the property appraiser. Such waiver may be revoked by a majority  
238 vote of the county governing body.

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

241 195.073 Classification of property.—All items required by  
242 law to be on the assessment rolls must receive a classification  
243 based upon the use of the property. The department shall  
244 promulgate uniform definitions for all classifications. The



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245 department may designate other subclassifications of property.  
246 No assessment roll may be approved by the department which does  
247 not show proper classifications.

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

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

253 1. Single family.

254 2. Mobile homes.

255 3. Multifamily.

256 4. Condominiums.

257 5. Cooperatives.

258 6. Retirement homes.

259 (b) Commercial and industrial.

260 (c) Agricultural.

261 (d) Nonagricultural acreage.

262 (e) High-water recharge.

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

265 (g) Exempt, wholly or partially.

266 (h) Centrally assessed.

267 (i) Leasehold interests.

268 (j) Time-share property.

269 (k) Land assessed under s. 193.501.

270 (l) Working waterfront property.

271 (m) ~~(l)~~ Other.

272 Section 3. The Department of Revenue may adopt emergency  
273 rules to administer s. 193.704, Florida Statutes, as created by



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274 this act. The emergency rules shall remain in effect for 6  
275 months after adoption and may be renewed during the pendency of  
276 procedures to adopt rules addressing the subject of the  
277 emergency rules.

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

283  
284 ===== T I T L E A M E N D M E N T =====

285 And the title is amended as follows:

286 Delete everything before the enacting clause  
287 and insert:

288 A bill to be entitled  
289 An act relating to working waterfront property;  
290 creating s. 193.704, F.S.; providing definitions;  
291 specifying properties that are eligible for  
292 classification as working waterfront property;  
293 requiring the assessment of working waterfront  
294 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  
298 of a portion of property within a working waterfront  
299 property which is not used as working waterfront  
300 property; requiring an application for classification  
301 of property as working waterfront property; specifying  
302 application requirements; authorizing a property



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303 appraiser to approve an application not filed by a  
304 certain deadline due to extenuating circumstances;  
305 providing for waiver of annual application  
306 requirements; providing for loss of classification  
307 upon a change of ownership or use; requiring property  
308 owners to notify the property appraiser of changes in  
309 use or ownership of property; imposing a penalty for  
310 failure to notify the property appraiser of an event  
311 resulting in the unlawful or improper classification  
312 of property as working waterfront property; requiring  
313 imposition of tax liens to recover penalties and  
314 interest; requiring property appraisers to make a list  
315 relating to applications to certify property as  
316 working waterfront property; providing an appeal  
317 process for applications that have been denied;  
318 amending s. 195.073, F.S.; providing for the  
319 classification of land as working waterfront property  
320 on an assessment roll; providing emergency rulemaking  
321 authority; providing for retroactive application;  
322 providing an alternate application date for 2010;  
323 providing an effective date.