

By Senator Dean

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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; requiring an application
11 for classification of property as working waterfront
12 property; specifying application requirements;
13 authorizing a property appraiser to approve an
14 application not filed by a certain deadline due to
15 extenuating circumstances; providing for waiver of
16 annual application requirements; providing for loss of
17 classification upon a change of ownership or use;
18 requiring property owners to notify the property
19 appraiser of changes in use or ownership of property;
20 imposing a penalty for failure to notify the property
21 appraiser of an event resulting in the unlawful or
22 improper classification of property as working
23 waterfront property; requiring imposition of tax liens
24 to recover penalties and interest; providing for
25 assessment of a portion of property within a working
26 waterfront property that is not used as working
27 waterfront property; requiring property appraisers to
28 make a list relating to applications to certify
29 property as working waterfront property; providing an

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30 appeal 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; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Section 193.704, Florida Statutes, is created to
38 read:

39 193.704 Working waterfront property; definitions;
40 classification and assessment; denial of classification and
41 appeal.-

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

45 (a) "Accessible to the public" means routinely available to
46 the public from sunrise to sunset, with or without charge, with
47 appropriate accommodations, including, but not limited to,
48 public parking or public boat ramps that are available for use
49 by the general public.

50 (b) "Commercial fishing facility" means docks, piers,
51 processing houses, or other facilities which support a
52 commercial fishing operation as defined in paragraph (c), or an
53 aquaculture operation licensed under chapter 253.

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

56 (d) "Drystack" means a vessel storage facility or building
57 in which storage spaces for vessels are available for use by the
58 public on a first-come, first-served basis with no automatic

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59 renewal rights or conditions. The term excludes storage that is
60 purchased, received, or rented as a result of homeownership or
61 tenancy.

62 (e) "Land used predominantly for commercial fishing
63 purposes" means land used in good faith in a venture for-profit
64 commercial fishing operation for the taking or harvesting of
65 freshwater fish or saltwater products, as defined in s. 379.101,
66 for which a commercial license to take, harvest, or sell such
67 fish or products is required under chapter 379, or land used in
68 an aquaculture operation authorized under ss. 253.67-253.75.

69 (f) "Marina" means a licensed commercial facility that
70 provides secured public moorings or drystacks for vessels on a
71 first-come, first-served basis and with no automatic renewal
72 rights or conditions. The term excludes mooring or storage that
73 is purchased, received, or rented as a result of homeownership
74 or tenancy.

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

77 (h) "Marine vessel construction and repair facility" means
78 a facility that constructs and repairs vessels that travel over
79 waters that are navigable, including, but not limited to,
80 shipyards and boatyards.

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

83 (j) "Repair" includes retrofitting and maintenance of
84 vessels.

85 (k) "Support facility" means a facility that typically is
86 colocated with marine vessel construction and repair facilities,
87 including, but not limited to, shops, equipment, and salvage

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88 facilities.

89 (l) "Water-dependent" means that the operations of a
90 facility require direct access to water.

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

93 (n) "Waters that are navigable" means any body of water
94 that is subject to the ebb and flow of the tide, connects with
95 continuous interstate waterway, has navigable capacity, and is
96 actually navigable.

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

98 (a) The following waterfront properties are eligible for
99 classification as working waterfront property:

100 1. Land used predominantly for commercial fishing purposes.

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

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

104 4. Water-dependent marine manufacturing facilities.

105 5. Water-dependent commercial fishing facilities.

106 6. Water-dependent marine vessel construction and repair
107 facilities and their support facilities.

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 appropriate to the property, the assessed value shall
112 be calculated using the income approach to value, and using a
113 capitalization rate based upon the debt coverage ratio formula.
114 The capitalization rate shall be calculated and updated
115 annually. The capitalization rate shall be based on data that is
116 county specific unless insufficient data is available, in which

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117 case the property appraisers shall use data from counties with
118 similar conditions and characteristics, or data provided by the
119 department. The condition and size of the property shall also be
120 taken into account when assessing the property.

121 2. In assessing property for which the methodology in
122 subparagraph 1. is not appropriate, the property appraiser shall
123 consider only the following factors:

124 a. The condition of the property.

125 b. The present market value of the property in its current
126 use.

127 c. The income produced by the property.

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

130 (c)1. Property may not be classified as working waterfront
131 property unless an application for such classification is filed
132 with the property appraiser on or before March 1 of each year in
133 the county in which the property is located. Before approving
134 such classification, the property appraiser may require the
135 applicant to establish that the property is actually used as
136 required under this section. The property appraiser may require
137 the applicant to furnish the property appraiser such information
138 as may reasonably be required to establish that such property
139 was actually used for working waterfront purposes, and to
140 establish the classified use value of the property, including
141 income and expense data. The owner or lessee of property
142 classified as working waterfront property in the prior year may
143 reapply on a short form provided by the department. The lessee
144 of property may make original application or reapply on a short
145 form if the lease, or an affidavit executed by the owner,

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146 provides that the lessee is empowered to make application for
147 the working waterfront classification on behalf of the owner and
148 a copy of the lease or affidavit accompanies the application. An
149 applicant may withdraw an application on or before the 25th day
150 following the mailing of the notice of proposed property taxes
151 pursuant to s. 200.069 in the year the application was filed.

152 2. Any property owner or lessee who fails to file an
153 application for classification as working waterfront property by
154 March 1 may file an application for classification with the
155 property appraiser on or before the 25th day following the
156 mailing of the notice of proposed property taxes pursuant to s.
157 200.069. Upon review of the application, if the applicant is
158 qualified to receive the classification and demonstrates
159 particular extenuating circumstances that warrant the
160 classification, the property appraiser may grant the
161 classification.

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

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

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175 the property as working waterfront property, or whenever the
176 status of the owner or the lessee changes so as to change the
177 classified status of the property.

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

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

201 b. The property appraiser making such determination shall
202 record in the public records of the county in which the working
203 waterfront property is located a notice of tax lien against any

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

216 7. When a parcel receiving a working waterfront
217 classification contains facilities or vacant land not eligible
218 to be classified as working waterfront property under this
219 subsection, the facilities and their curtilage, as well as the
220 vacant land, must be assessed separately as provided in s.
221 193.011.

222 8. The property appraiser shall have available at his or
223 her office a list by ownership of all applications for
224 classification as working waterfront property received, showing
225 the acreage, the full valuation under s. 193.011, the value of
226 the land under the provisions of this subsection, and whether or
227 not the classification was granted.

228 (3) DENIAL OF CLASSIFICATION; APPEAL.—

229 (a) The property appraiser shall notify an applicant for a
230 working waterfront classification in writing of a denial of an
231 application for such classification on or before July 1 of the
232 year for which the application was filed. The notification shall

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233 advise the applicant of his or her right to appeal to the value
234 adjustment board and of the appeal filing deadline.

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

249 (c) A denial of a petition for classification by the value
250 adjustment board may be appealed to a court of competent
251 jurisdiction.

252 (d)1. Property that has received a working waterfront
253 classification from the value adjustment board or a court of
254 competent jurisdiction under this subsection is entitled to
255 receive such classification in any subsequent year until such
256 use is changed, abandoned, or discontinued or the ownership
257 changes in any manner as provided in subparagraph (2)(c)4. The
258 property appraiser shall, no later than January 31 of each year,
259 provide notice to the property owner or lessee receiving a
260 classification under this subsection requiring the property
261 owner or a lessee qualified to make application to certify that

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262 the ownership and the use of the property has not changed. The
263 department shall prescribe by rule the form of the notice to be
264 used by the property appraiser.

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

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

276 195.073 Classification of property.—All items required by
277 law to be on the assessment rolls must receive a classification
278 based upon the use of the property. The department shall
279 promulgate uniform definitions for all classifications. The
280 department may designate other subclassifications of property.
281 No assessment roll may be approved by the department which does
282 not show proper classifications.

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

285 (a) Residential, subclassified into categories, one
286 category for homestead property and one for nonhomestead
287 property:

- 288 1. Single family.
- 289 2. Mobile homes.
- 290 3. Multifamily.

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- 291 4. Condominiums.
- 292 5. Cooperatives.
- 293 6. Retirement homes.
- 294 (b) Commercial and industrial.
- 295 (c) Agricultural.
- 296 (d) Nonagricultural acreage.
- 297 (e) High-water recharge.
- 298 (f) Historic property used for commercial or certain
- 299 nonprofit purposes.
- 300 (g) Exempt, wholly or partially.
- 301 (h) Centrally assessed.
- 302 (i) Leasehold interests.
- 303 (j) Time-share property.
- 304 (k) Land assessed under s. 193.501.
- 305 (l) Working waterfront property.
- 306 (m)~~(l)~~ Other.
- 307 Section 3. This act shall take effect July 1, 2010.