

**By** the Committees on Finance and Tax; and Community Affairs; and Senators Dean, Gaetz, Lynn, Smith, Aronberg, Rich, Storms, and Sobel

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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; 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

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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; providing emergency rulemaking  
34 authority; providing for retroactive application;  
35 providing an alternate application date for 2010;  
36 providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 193.704, Florida Statutes, is created to  
41 read:

42 193.704 Working waterfront property; definitions;  
43 classification and assessment; denial of classification and  
44 appeal.-

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

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

53 (b) "Commercial fishing facility" means docks, piers,  
54 processing houses, or other facilities that support a commercial  
55 fishing operation or an aquaculture operation certified under  
56 chapter 597.

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

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

64        (e) "Land used predominantly for commercial fishing  
65 purposes" means land used in good faith in a for-profit  
66 commercial fishing operation for the taking or harvesting of  
67 freshwater fish or saltwater products, as defined in s. 379.101,  
68 for which a commercial license to take, harvest, or sell such  
69 fish or products is required under chapter 379, or land used in  
70 an aquaculture operation certified under chapter 597.

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

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

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

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

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

86        (k) "Support facility" means a facility that typically is  
87 collocated with marine vessel construction and repair

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88 facilities, including, but not limited to, shops, equipment, and  
89 salvage facilities.

90 (1) "Water-dependent" means that the activities performed  
91 in the facility can be conducted only on, in, over, or adjacent  
92 to waters that are navigable, require direct access to water,  
93 and involve the use of water as an integral part of such  
94 activity.

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

97 (n) "Waters that are navigable" means water bodies that are  
98 capable of supporting boating and that are used or may be used  
99 in their ordinary condition as highways for commerce for which  
100 trade or travel are or may be conducted in the customary modes  
101 of trade or travel on water.

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

103 (a) The following waterfront properties are eligible for  
104 classification as working waterfront property:

105 1. Land used predominantly for commercial fishing purposes.

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

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

109 4. Water-dependent marine manufacturing facilities.

110 5. Water-dependent commercial fishing facilities.

111 6. Water-dependent marine vessel construction and repair  
112 facilities and their support facilities.

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

116 1. If the income approach to value is appropriate to the

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

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

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

131 4. If a parcel contains both uses eligible for assessment  
132 under this section and uses that are not eligible for assessment  
133 under this section, those portions of the property that are not  
134 eligible for assessment under this section must be assessed  
135 separately as otherwise provided by this chapter.

136 (c)1. Property may not be classified as working waterfront  
137 property unless an application for such classification is filed  
138 with the property appraiser on or before March 1 of each year in  
139 the county in which the property is located. Before approving  
140 such classification, the property appraiser may require the  
141 applicant to establish that the property is actually used as  
142 required under this section. The property appraiser may require  
143 the applicant to furnish the property appraiser such information  
144 as may reasonably be required to establish that such property  
145 was actually used for working waterfront purposes and to

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146 establish the classified use value of the property, including  
147 income and expense data. The owner or lessee of property  
148 classified as working waterfront property in the prior year may  
149 reapply on a short form provided by the department. The lessee  
150 of property may make original application or reapply on a short  
151 form if the lease, or an affidavit executed by the owner,  
152 provides that the lessee is empowered to make application for  
153 the working waterfront classification on behalf of the owner and  
154 a copy of the lease or affidavit accompanies the application. An  
155 applicant may withdraw an application on or before the 25th day  
156 following the mailing of the notice of proposed property taxes  
157 pursuant to s. 200.069 in the year the application was filed.

158 2. Any property owner or lessee who fails to file an  
159 application for classification as working waterfront property by  
160 March 1 may file an application for classification with the  
161 property appraiser on or before the 25th day following the  
162 mailing of the notice of proposed property taxes pursuant to s.  
163 200.069. Upon review of the application, if the applicant is  
164 qualified to receive the classification and demonstrates  
165 particular extenuating circumstances that warrant the  
166 classification, the property appraiser may grant the  
167 classification.

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

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

184 5. The property appraiser shall remove from the  
185 classification as working waterfront property any property for  
186 which the classified use has been abandoned or discontinued or  
187 the property has been diverted to an unclassified use. Such  
188 removed property shall be assessed at just value as provided in  
189 s. 193.011.

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

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204 owner or lessee can demonstrate that he or she took reasonable  
205 care to notify the property appraiser of the change in use,  
206 status, or condition of the property.

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

222 7. The property appraiser shall have available at his or  
223 her office a list by ownership of all applications received for  
224 classification of property as working waterfront property,  
225 showing the acreage, the just value under s. 193.011, the value  
226 of the land under the provisions of this subsection, and whether  
227 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 that 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. The Department of Revenue may adopt emergency  
 308 rules to administer s. 193.704, Florida Statutes, as created by  
 309 this act. The emergency rules shall remain in effect for 6  
 310 months after adoption and may be renewed during the pendency of  
 311 procedures to adopt rules addressing the subject of the  
 312 emergency rules.

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