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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/21/2010	.	
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The Committee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 40 - 270
and insert:

(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 working waterfronts to exclusively private uses limits public access to the state's waterways for recreational boating, fishing, and other commercial water-dependent activities. The Legislature also recognizes that the conversion of traditional working waterfronts to exclusively private uses often causes an



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13 increase in property taxes on nearby working waterfronts when
14 these waterfronts are assessed at their highest and best use. It
15 is the intent of the Legislature that working waterfront
16 property, including water-dependent commercial transportation
17 facilities and their water-dependent support facilities, shall
18 be assessed at its current use, as provided by s. 4(j), Art. VII
19 of the State Constitution.

20 (2) DEFINITIONS.—For purposes of granting a working
21 waterfront property classification under this section for
22 January 1, 2010, and thereafter, the term:

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

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

32 (c) "Commercial fishing operation" has the same meaning as
33 provided in s. 379.2351.

34 (d) "Drystack" means a vessel storage facility or building
35 in which storage spaces for vessels are available for use by the
36 public on a first-come, first-served basis, with no automatic
37 renewal rights or conditions. The term excludes storage that is
38 purchased, received, or rented as a result of homeownership or
39 tenancy.

40 (e) "Land used predominantly for commercial fishing
41 purposes" means land used in good faith in a for-profit



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42 commercial fishing operation for the taking or harvesting of
43 freshwater fish or saltwater products, as defined in s. 379.101,
44 for which a commercial license to take, harvest, or sell such
45 fish or products is required under chapter 379, or land used in
46 an aquaculture operation certified under chapter 597.

47 (f) "Marina" means a licensed commercial facility that
48 provides secured public moorings or drystacks for vessels on a
49 first-come, first-served basis, with no automatic renewal rights
50 or conditions. The term excludes mooring or storage that is
51 purchased, received, or rented as a result of homeownership or
52 tenancy.

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

55 (h) "Marine vessel construction and repair facility" means
56 a facility that constructs and repairs vessels that travel over
57 waters that are navigable, including, but not limited to,
58 shipyards and boatyards. As used in this section, the term
59 "repair" includes retrofitting and maintenance of vessels.

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

62 (j) "Support facility" means a facility that typically is
63 colocated with marine vessel construction and repair facilities,
64 including, but not limited to, shops, equipment, and salvage
65 facilities.

66 (k) "Water-dependent" means an activity that can be
67 conducted only on, in, over, or adjacent to waters that are
68 navigable and that requires direct access to water and involves
69 the use of water as an integral part of such activity.

70 (l) "Waterfront" means property that is on, over, or



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71 abutting waters that are navigable. Property that is separated
72 from property abutting waters that are navigable by a public
73 right of way may be considered waterfront property, if the
74 property on both sides of the public right of way is under
75 common ownership and the property that is separated by the
76 public right of way has direct access to the water by crossing
77 the public right of way.

78 (m) "Waters that are navigable" means any body of water
79 that is subject to the ebb and flow of the tide, connects with
80 continuous interstate waterway, has navigable capacity, and is
81 actually navigable.

82 (3) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.—

83 (a) The following waterfront properties are eligible for
84 classification as working waterfront property:

85 1. Land used predominantly for commercial fishing purposes.

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

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

89 4. Water-dependent marine manufacturing facilities.

90 5. Water-dependent commercial fishing facilities.

91 6. Water-dependent marine vessel construction and repair
92 facilities and their support facilities.

93 7. Water-dependent facilities used for the commercial
94 transportation of goods and people.

95 8. Water-dependent facilities used for activities that
96 support the commercial transportation of goods and people. These
97 activities include, but are not limited to, towing, storage, and
98 salvage.

99 (b) Property classified as working waterfront property



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100 under this section shall be assessed on the basis of current
101 use.

102 1. If the income approach to valuation is appropriate to
103 the property and if adequate local data on market rental rates,
104 expense rates, and vacancy rates are available, the assessed
105 value shall be calculated using the income approach to value,
106 using a capitalization rate based upon the debt coverage ratio
107 formula, adjusted for the effective tax rate and the percentage
108 of equity multiplied by the equity yield rate. The
109 capitalization rate shall be calculated and updated annually and
110 shall be based on local data.

111 2. If the conditions required for assessment under
112 subparagraph 1. are not satisfied, the property appraiser shall
113 value the property at its present cash value as if it were
114 required to remain in its current working waterfront use.

115 3. In no event shall the assessed value of the property
116 exceed just value.

117 (c)1. Property may not be classified as working waterfront
118 property unless an application for such classification is filed
119 with the property appraiser on or before March 1 of each year in
120 the county in which the property is located. Before approving
121 such classification, the property appraiser may require the
122 applicant to establish that the property is actually used as
123 required under this section. The property appraiser may require
124 the applicant to furnish the property appraiser such information
125 as may reasonably be required to establish that such property
126 was actually used for working waterfront purposes, and to
127 establish the classified use value of the property, including
128 income and expense data. The owner or lessee of the property



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129 classified as working waterfront property in the prior year may
130 reapply on a short form provided by the Department of Revenue.
131 The lessee of property may make original application or reapply
132 on a short form if the lease, or an affidavit executed by the
133 owner, provides that the lessee is empowered to make application
134 for the working waterfront classification on behalf of the owner
135 and a copy of the lease or affidavit accompanies the
136 application. An applicant may withdraw an application on or
137 before the 25th day following the mailing of the notice of
138 proposed property taxes pursuant to s. 200.069 in the year the
139 application was filed.

140 2. Failure of a property owner or lessee to apply for a
141 classification as working waterfront property by March 1
142 constitutes a waiver for 1 year of the privilege granted in this
143 section. However, a person who is qualified to receive a working
144 waterfront classification but who fails to timely apply for
145 classification may file an application for classification with
146 the property appraiser on or before the 25th day following the
147 mailing of proposed property taxes pursuant to s. 200.069. Upon
148 review of the application, if the applicant is qualified to
149 receive the classification and demonstrates particular
150 extenuating circumstances that warrant the classification, the
151 property appraiser may grant the classification.

152 3. A county, at the request of the property appraiser and
153 by a majority vote of its governing body, may waive the
154 requirement that an annual application or short form be filed
155 with the property appraiser for renewal of the classification of
156 property within the county as working waterfront property. Such
157 waiver may be revoked by a majority of the county governing



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158 body.

159 4. Notwithstanding subparagraph 2., a new application for
160 classification as working waterfront property must be filed with
161 the property appraiser whenever any property granted the
162 classification as working waterfront property is sold or
163 otherwise disposed of, whenever ownership or the lessee changes
164 in any manner, whenever the owner or the lessee ceases to use
165 the property as working waterfront property, or whenever the
166 status of the owner or the lessee changes so as to change the
167 classified status of the property.

168 5. The property appraiser shall remove from the
169 classification as working waterfront property any property for
170 which the classified use has been abandoned or discontinued, or
171 if the property has been diverted to an unclassified use. Such
172 removed property shall be assessed at just value as provided in
173 s. 193.011.

174 6.a. The owner of any property classified as working
175 waterfront property who is not required to file an annual
176 application under this section, and the lessee if the
177 application was made by the lessee, shall notify the property
178 appraiser promptly whenever the use of the property or the
179 status or condition of the owner or lessee changes so as to
180 change the classified status of the property. If any such
181 property owner or lessee fails to notify the property appraiser
182 and the property appraiser determines that for any year within
183 the prior 10 years the owner was not entitled to receive such
184 classification, the owner of the property is subject to taxes
185 otherwise due and owing as a result of such failure plus 15
186 percent interest per annum and a penalty of 50 percent of the



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187 additional taxes owed. However, the penalty may be waived if the
188 owner or lessee can demonstrate that they took reasonable care
189 to notify the property appraiser of the change in use, status,
190 or condition of the property.

191 b. The property appraiser making such determination shall
192 record in the public records of the county in which the working
193 waterfront property is located a notice of tax lien against any
194 property owned by the working waterfront property owner, and
195 such property must be identified in the notice of tax lien. Such
196 property is subject to the payment of all taxes and penalties.
197 Such lien, when filed, attaches to any property identified in
198 the notice of tax lien owned by the person or entity that
199 illegally or improperly received the classification. If such
200 person or entity no longer owns property in that county but owns
201 property in another county or counties in the state, the
202 property appraiser shall record in such other county or counties
203 a notice of tax lien identifying the property owned by the
204 working waterfront property owner in such county or counties
205 which shall become a lien against the identified property.

206 7. When a parcel contains both uses eligible for assessment
207 under this section and uses that are not eligible for assessment
208 under this section, those portions of the property that are not
209 eligible for assessment under this section must be assessed
210 separately as otherwise provided by this chapter.

211 8. The property appraiser shall have available at his or
212 her office a list by ownership of all applications for
213 classification as working waterfront property received, showing
214 the acreage, the just valuation under s. 193.011, the value of
215 the land under the provisions of this subsection, and whether



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216 the classification was granted.

217 (4) DENIAL OF CLASSIFICATION; APPEAL.—

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

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

238 (c) A denial of a petition for classification by the value
239 adjustment board may be appealed to a court of competent
240 jurisdiction.

241 (d)1. Property that has received a working waterfront
242 classification from the value adjustment board or a court of
243 competent jurisdiction under this subsection is entitled to
244 receive such classification in any subsequent year until such



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245 use is changed, abandoned, or discontinued, or the ownership
246 changes in any manner as provided in subparagraph (3)(c)4. The
247 property appraiser shall, no later than January 31 of each year,
248 provide notice to the property owner or lessee receiving a
249 classification under this subsection requiring the property
250 owner or a lessee qualified to make application to certify that
251 the ownership and the use of the property has not changed. The
252 department shall prescribe by rule the form of the notice to be
253 used by the property appraiser.

254 2. If a county has waived the requirement that an annual
255 application or short form be filed for classification of the
256 property under subsection (3), the county may, by majority vote
257

258 ===== T I T L E A M E N D M E N T =====

259 And the title is amended as follows:

260 Delete line 3

261 and insert:

262 creating s. 193.704, F.S.; providing legislative
263 intent; defining terms; specifying