

FOR CONSIDERATION By the Committee on Finance and Tax

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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.; defining terms; specifying  
4           property that is eligible for classification as  
5           working waterfront property; requiring the assessment  
6           of working waterfront property based on current use;  
7           requiring an application for classification of  
8           property as working waterfront property; authorizing a  
9           property appraiser to approve an application that is  
10          not filed by a certain deadline due to extenuating  
11          circumstances; providing for the waiver of annual  
12          application requirements; providing for the loss of  
13          classification upon a change of ownership or use;  
14          requiring that property owners notify the property  
15          appraiser of changes in use or ownership of property;  
16          imposing a penalty on a property owner who fails to  
17          notify the property appraiser of an event resulting in  
18          the unlawful or improper classification of property as  
19          working waterfront property; requiring the imposition  
20          of tax liens to recover penalties and interest;  
21          providing for the assessment of a portion of property  
22          within a working waterfront property which is not used  
23          as working waterfront property; requiring that a  
24          property appraiser make a list relating to  
25          applications to certify property as working waterfront  
26          property; providing an appeal process for an  
27          application that has been denied; amending s. 195.073,  
28          F.S.; providing for the classification of land as  
29          working waterfront property on an assessment roll;

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30 providing for retroactive application; providing an  
31 effective date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Section 193.704, Florida Statutes, is created to  
36 read:

37 193.704 Working waterfront property; definitions;  
38 classification and assessment; denial of classification and  
39 appeal.-

40 (1) DEFINITIONS.-For purposes of granting a working  
41 waterfront property classification under this section for  
42 January 1, 2010, and thereafter, the term:

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

48 (b) "Commercial fishing facility" means docks, piers,  
49 processing houses, or other facilities that support a commercial  
50 fishing operation or an aquaculture operation certified under  
51 chapter 597.

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

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

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59 tenancy.

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

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

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

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

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

82 (j) "Support facility" means a facility that typically is  
83 colocated with marine vessel construction and repair facilities,  
84 including, but not limited to, shops, equipment, and salvage  
85 facilities.

86 (k) "Water-dependent" means an activity that can be  
87 conducted only on, in, over, or adjacent to waters that are

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88 navigable and that requires direct access to water and involves  
89 the use of water as an integral part of such activity.

90 (1) "Waterfront" means property that is on, over, or  
91 abutting waters that are navigable. Property that is separated  
92 from property abutting waters that are navigable by a public  
93 right of way may be considered waterfront property, if the  
94 property on both sides of the public right of way is under  
95 common ownership and the property that is separated by the  
96 public right of way has direct access to the water by crossing  
97 the public right of way.

98 (m) "Waters that are navigable" means any body of water  
99 that is subject to the ebb and flow of the tide, connects with  
100 continuous interstate waterway, has navigable capacity, and is  
101 actually navigable.

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 valuation is appropriate to

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117 the property and if adequate local data on market rental rates,  
118 expense rates, and vacancy rates are available, the assessed  
119 value shall be calculated using the income approach to value,  
120 using a capitalization rate based upon the debt coverage ratio  
121 formula, adjusted for the effective tax rate and the percentage  
122 of equity multiplied by the equity yield rate. The  
123 capitalization rate shall be calculated and updated annually and  
124 shall be based on local data.

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

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

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

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

154 2. Failure of a property owner or lessee to apply for a  
155 classification as working waterfront property by March 1  
156 constitutes a waiver for 1 year of the privilege granted in this  
157 section. However, a person who is qualified to receive a working  
158 waterfront classification but who fails to timely apply for  
159 classification may file an application for classification with  
160 the property appraiser on or before the 25th day following the  
161 mailing of proposed property taxes pursuant to s. 200.069. Upon  
162 review of the application, if the applicant is qualified to  
163 receive the classification and demonstrates particular  
164 extenuating circumstances that warrant the classification, the  
165 property appraiser may grant the classification.

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

173 4. Notwithstanding subparagraph 2., a new application for  
174 classification as working waterfront property must be filed with

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175 the property appraiser whenever any property granted the  
176 classification as working waterfront property is sold or  
177 otherwise disposed of, whenever ownership or the lessee changes  
178 in any manner, whenever the owner or the lessee ceases to use  
179 the property as working waterfront property, or whenever the  
180 status of the owner or the lessee changes so as to change the  
181 classified status of the property.

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

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

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204 or condition of the property.

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

220 7. When a parcel contains both uses eligible for assessment  
221 under this section and uses that are not eligible for assessment  
222 under this section, those portions of the property that are not  
223 eligible for assessment under this section must be assessed  
224 separately as otherwise provided by this chapter.

225 8. The property appraiser shall have available at his or  
226 her office a list by ownership of all applications for  
227 classification as working waterfront property received, showing  
228 the acreage, the just valuation under s. 193.011, the value of  
229 the land under the provisions of this subsection, and whether  
230 the classification was granted.

231 (3) DENIAL OF CLASSIFICATION; APPEAL.—

232 (a) If an application for working waterfront classification



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233 is made by March 1, the property appraiser shall notify the  
234 applicant in writing of a denial of the application on or before  
235 July 1 of the year for which the application was filed. The  
236 notification shall advise the applicant of his or her right to  
237 appeal to the value adjustment board and of the appeal filing  
238 deadline.

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

252 (c) A denial of a petition for classification by the value  
253 adjustment board may be appealed to a court of competent  
254 jurisdiction.

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

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262 provide notice to the property owner or lessee receiving a  
263 classification under this subsection requiring the property  
264 owner or a lessee qualified to make application to certify that  
265 the ownership and the use of the property has not changed. The  
266 department shall prescribe by rule the form of the notice to be  
267 used by the property appraiser.

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

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

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

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

288 (a) Residential, subclassified into categories, one  
289 category for homestead property and one for nonhomestead  
290 property:

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