

1 A bill to be entitled  
2 An act relating to working waterfront property; creating  
3 s. 193.704, F.S.; providing definitions; specifying  
4 property that is eligible for classification as working  
5 waterfront property; requiring the assessment of working  
6 waterfront property based on current use; requiring an  
7 application for classification of property as working  
8 waterfront property; authorizing a property appraiser to  
9 approve an application that is not filed by a certain  
10 deadline due to extenuating circumstances; providing for  
11 the waiver of annual application requirements; providing  
12 for the loss of classification upon a change of ownership  
13 or use; requiring that property owners notify the property  
14 appraiser of changes in use or ownership of property;  
15 imposing a penalty on a property owner who fails to notify  
16 the property appraiser of an event resulting in the  
17 unlawful or improper classification of property as working  
18 waterfront property; requiring the imposition of tax liens  
19 to recover penalties and interest; providing for the  
20 assessment of a portion of property within a working  
21 waterfront property which is not used as working  
22 waterfront property; requiring that a property appraiser  
23 make a list relating to applications to certify property  
24 as working waterfront property; providing an appeal  
25 process for an application that has been denied; amending  
26 s. 195.073, F.S.; providing for the classification of land  
27 as working waterfront property on an assessment roll;  
28 providing an alternate application deadline date for

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29 | calendar year 2010; amending s. 380.5105, F.S.; providing  
30 | program objectives for the Stan Mayfield Working  
31 | Waterfronts Program and the Florida Forever program for  
32 | purposes of selecting certain projects; deleting project  
33 | selection criteria; providing for nonretroactive operation  
34 | of certain provisions; providing for continuation of  
35 | funded status for certain projects; providing emergency  
36 | rulemaking authority for the Department of Revenue;  
37 | providing for severability; providing for retroactive  
38 | operation; providing effective dates.

39 |  
40 | Be It Enacted by the Legislature of the State of Florida:

41 |  
42 | Section 1. Section 193.704, Florida Statutes, is created  
43 | to read:

44 | 193.704 Working waterfront property; definitions;  
45 | classification and assessment; denial of classification and  
46 | appeal.-

47 | (1) DEFINITIONS.-For purposes of granting a working  
48 | waterfront property classification under this section for  
49 | January 1, 2010, and thereafter, the term:

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

55 | (b) "Commercial fishing facility" means docks, piers,  
56 | processing houses, or other facilities that support a commercial

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57 fishing operation or an aquaculture operation certified under  
58 chapter 597.

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

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

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

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

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

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

84 (i) "Open to the public" means for hire to the general

85 public and accessible during normal operating hours.

86 (j) "Repair" includes retrofitting and maintenance of  
87 vessels.

88 (k) "Right-of-way" has the same meaning as provided in s.  
89 334.03.

90 (l) "Support facility" means a facility that typically is  
91 colocated with marine vessel construction and repair facilities,  
92 including, but not limited to, shops, equipment, and salvage  
93 facilities.

94 (m) "Water-dependent" means that the activity performed in  
95 the facility can be conducted only on, in, over, or adjacent to  
96 waters that are navigable and requires direct access to water  
97 and involves the use of water as an integral part of such  
98 activity.

99 (n) "Waterfront" means property that is on, over, or  
100 abutting waters that are navigable. Property that is separated  
101 from property abutting waters that are navigable by a right-of-  
102 way may be considered waterfront property, if:

103 1. The properties on both sides of the right-of-way are  
104 under common ownership.

105 2. The properties on both sides of the right-of-way are  
106 part of the same business enterprise.

107 3. The property that is separated from the water by the  
108 right-of-way has direct access to the water by crossing the  
109 right-of-way.

110 (o) "Waters that are navigable" means waters that support  
111 navigation by floating vessels of any description for the  
112 purpose of transportation, recreation, or commerce.

113        (2) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.—  
 114        (a) The following waterfront properties are eligible for  
 115 classification as working waterfront property:  
 116        1. Land used predominantly for commercial fishing  
 117 purposes.  
 118        2. Land that is accessible to the public and used for  
 119 vessel launches into waters that are navigable.  
 120        3. Marinas and drystacks that are open to the public.  
 121        4. Water-dependent marine manufacturing facilities.  
 122        5. Water-dependent commercial fishing facilities.  
 123        6. Water-dependent marine vessel construction and repair  
 124 facilities and their support facilities.  
 125        7. Water-dependent facilities located in a county defined  
 126 in s. 125.011(1):  
 127        a. Used for the commercial transportation of goods and  
 128 people to and from foreign ports; or  
 129        b. Used to provide towing, storage, and salvage in support  
 130 of the facilities described in sub-subparagraph a.  
 131        (b) Property classified as working waterfront property  
 132 under this section shall be assessed on the basis of current  
 133 use.  
 134        1. If the income approach to value is appropriate to the  
 135 property and if adequate local data on comparable rental rates,  
 136 expense rates, and vacancy rates are available to the property  
 137 appraiser, the assessed value shall be established using the  
 138 income approach to value, using an overall capitalization rate  
 139 based upon the debt coverage ratio formula, adjusted for the  
 140 effective tax rate. The overall capitalization rate shall be

141 calculated annually and shall be based on local data.

142 2. If the conditions required for assessment under  
 143 subparagraph 1. are not satisfied, the property appraiser shall  
 144 value the property at its present cash value as if it were  
 145 required to remain in its current use into the foreseeable  
 146 future.

147 3. In no event shall the assessed value of the property  
 148 exceed just value.

149 4. When a parcel contains uses eligible for assessment  
 150 under this section and uses that are not eligible for assessment  
 151 under this section, those portions of the property that are not  
 152 eligible for assessment under this section must be assessed  
 153 separately as otherwise provided by this chapter.

154 (c)1. Property may not be classified as working waterfront  
 155 property unless an application for such classification is filed  
 156 with the property appraiser on or before March 1 of each year in  
 157 the county in which the property is located. Before approving  
 158 such classification, the property appraiser may require the  
 159 applicant to establish that the property is actually used as  
 160 required under this section. The property appraiser may require  
 161 the applicant to furnish the property appraiser such information  
 162 as may reasonably be required to establish that such property  
 163 was actually used for working waterfront purposes, and to  
 164 establish the classified use value of the property, including  
 165 income and expense data. The owner or lessee of the property  
 166 classified as working waterfront property in the prior year may  
 167 reapply on a short form provided by the Department of Revenue.  
 168 The lessee of property may make original application or reapply

169 on a short form if the lease, or an affidavit executed by the  
170 owner, provides that the lessee is empowered to make application  
171 for the working waterfront classification on behalf of the owner  
172 and a copy of the lease or affidavit accompanies the  
173 application. An applicant may withdraw an application on or  
174 before the 25th day following the mailing of the notice of  
175 proposed property taxes pursuant to s. 200.069 in the year the  
176 application was filed.

177 2. Failure of a property owner or lessee to apply for a  
178 classification as working waterfront property by March 1  
179 constitutes a waiver for 1 year of the privilege granted in this  
180 section. However, a person who is qualified to receive a working  
181 waterfront classification but who fails to timely apply for  
182 classification may file an application for classification with  
183 the property appraiser on or before the 25th day following the  
184 mailing of proposed property taxes pursuant to s. 200.069. Upon  
185 review of the application, if the applicant is qualified to  
186 receive the classification and demonstrates particular  
187 extenuating circumstances that warrant the classification, the  
188 property appraiser may grant the classification.

189 3. A county, at the request of the property appraiser and  
190 by a majority vote of its governing body, may waive the  
191 requirement that an annual application or short form be filed  
192 with the property appraiser for renewal of the classification of  
193 property within the county as working waterfront property. Such  
194 waiver may be revoked by a majority vote of the county governing  
195 body.

196 4. Notwithstanding subparagraph 3., a new application for

197 classification as working waterfront property must be filed with  
198 the property appraiser whenever any property granted the  
199 classification as working waterfront property is sold or  
200 otherwise disposed of, whenever ownership or the lessee changes  
201 in any manner, whenever the owner or the lessee ceases to use  
202 the property as working waterfront property, or whenever the  
203 status of the owner or the lessee changes so as to change the  
204 classified status of the property.

205 5. The property appraiser shall remove from the  
206 classification as working waterfront property any property for  
207 which the classified use has been abandoned or discontinued, or  
208 if the property has been diverted to an unclassified use. Such  
209 removed property shall be assessed at just value as provided in  
210 s. 193.011.

211 6.a. The owner of any property classified as working  
212 waterfront property who is not required to file an annual  
213 application under this section, and the lessee if the  
214 application was made by the lessee, shall notify the property  
215 appraiser promptly whenever the use of the property or the  
216 status or condition of the owner or lessee changes so as to  
217 change the classified status of the property. If any such  
218 property owner or lessee fails to notify the property appraiser  
219 and the property appraiser determines that for any year within  
220 the prior 10 years the owner was not entitled to receive such  
221 classification, the owner of the property is subject to taxes  
222 otherwise due and owing as a result of such failure plus 15  
223 percent interest per annum and a penalty of 50 percent of the  
224 additional taxes owed. However, the penalty may be waived if the



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

228 b. The property appraiser making such determination shall  
 229 record in the public records of the county in which the working  
 230 waterfront property is located a notice of tax lien against any  
 231 property owned by the working waterfront property owner, and  
 232 such property must be identified in the notice of tax lien. Such  
 233 property is subject to the payment of all taxes and penalties.  
 234 Such lien, when filed, attaches to any property identified in  
 235 the notice of tax lien owned by the person or entity that  
 236 illegally or improperly received the classification. If such  
 237 person or entity no longer owns property in that county but owns  
 238 property in another county or counties in the state, the  
 239 property appraiser shall record in such other county or counties  
 240 a notice of tax lien identifying the property owned by the  
 241 working waterfront property owner in such county or counties  
 242 which shall become a lien against the identified property.

243 7. The property appraiser shall have available at his or  
 244 her office a list by ownership of all applications for  
 245 classification as working waterfront property received, showing  
 246 the acreage, the just valuation under s. 193.011, the value of  
 247 the land under the provisions of this subsection, and whether  
 248 the classification was granted.

249 (3) DENIAL OF CLASSIFICATION; APPEAL.—

250 (a) If an application for working waterfront  
 251 classification is made by March 1, the property appraiser shall  
 252 notify the applicant in writing of a denial of the application

253 on or before July 1 of the year for which the application was  
 254 filed. The notification shall advise the applicant of his or her  
 255 right to appeal to the value adjustment board and of the appeal  
 256 filing deadline.

257 (b) Any applicant whose application for classification as  
 258 working waterfront property is denied by the property appraiser  
 259 may appeal to the value adjustment board by filing a petition  
 260 requesting that the classification be granted. The petition may  
 261 be filed on or before the 25th day following the mailing of the  
 262 assessment notice by the property appraiser as required under s.  
 263 194.011(1). The petitioner shall pay a nonrefundable fee of \$15  
 264 upon filing the petition. Upon the value adjustment board's  
 265 review of the petition, if the petitioner is qualified to  
 266 receive the classification, the value adjustment board may grant  
 267 the petition and classification.

268 (c) A denial of a petition for classification by the value  
 269 adjustment board may be appealed to a court of competent  
 270 jurisdiction.

271 (d) Property that has received a working waterfront  
 272 classification from the value adjustment board or a court of  
 273 competent jurisdiction under this subsection is entitled to  
 274 receive such classification in any subsequent year until such  
 275 use is changed, abandoned, or discontinued, or the ownership  
 276 changes in any manner as provided in subparagraph (2)(c)4. The  
 277 property appraiser shall, no later than January 31 of each year,  
 278 provide notice to the property owner or lessee receiving a  
 279 classification under this subsection requiring the property  
 280 owner or a lessee qualified to make application to certify that

281 the ownership and the use of the property has not changed. The  
 282 department shall prescribe by rule the form of the notice to be  
 283 used by the property appraiser.

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

286 195.073 Classification of property.—All items required by  
 287 law to be on the assessment rolls must receive a classification  
 288 based upon the use of the property. The department shall  
 289 promulgate uniform definitions for all classifications. The  
 290 department may designate other subclassifications of property.  
 291 No assessment roll may be approved by the department which does  
 292 not show proper classifications.

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

295 (a) Residential, subclassified into categories, one  
 296 category for homestead property and one for nonhomestead  
 297 property:

- 298 1. Single family.
- 299 2. Mobile homes.
- 300 3. Multifamily.
- 301 4. Condominiums.
- 302 5. Cooperatives.
- 303 6. Retirement homes.

304 (b) Commercial and industrial.

305 (c) Agricultural.

306 (d) Nonagricultural acreage.

307 (e) High-water recharge.

308 (f) Historic property used for commercial or certain

309 nonprofit purposes.

310 (g) Exempt, wholly or partially.

311 (h) Centrally assessed.

312 (i) Leasehold interests.

313 (j) Time-share property.

314 (k) Land assessed under s. 193.501.

315 (l) Working waterfront property.

316 (m)~~(l)~~ Other.

317 Section 3. Effective July 1, 2010, subsection (2) of  
318 section 380.5105, Florida Statutes, is amended to read:

319 380.5105 The Stan Mayfield Working Waterfronts; Florida  
320 Forever program.—

321 (2) The trust and the Department of Agriculture and  
322 Consumer Services shall jointly develop rules specifically  
323 establishing an application process and a process for the  
324 evaluation, scoring and ranking of working waterfront  
325 acquisition projects. The proposed rules jointly developed  
326 pursuant to this subsection shall be adopted ~~promulgated~~ by the  
327 trust. Such rules shall ensure that the following general  
328 program objectives are considered in selecting ~~establish a~~  
329 ~~system of weighted criteria to give increased priority to~~  
330 projects:

331 (a) That projects demonstrate a strong contribution to the  
332 preservation of Florida's commercial fishing, marine, or  
333 aquaculture industries. ~~Within a municipality with a population~~  
334 ~~less than 30,000;~~

335 (b) That projects are located in areas being converted or  
336 threatened with conversion to uses that are incompatible with

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337 working waterfront uses or are not marine or fishing uses.

338 ~~Within a municipality or area under intense growth and~~  
339 ~~development pressures, as evidenced by a number of factors,~~  
340 ~~including a determination that the municipality's growth rate~~  
341 ~~exceeds the average growth rate for the state;~~

342 (c) That projects provide a demonstrable benefit to the  
343 local or state economy leading to employment opportunities in  
344 commercial fishing, marine, aquaculture, and related industries.  
345 ~~Within the boundary of a community redevelopment agency~~  
346 ~~established pursuant to s. 163.356;~~

347 (d) That projects have been used for commercial fishing,  
348 marine, or aquaculture purposes or would create an opportunity  
349 to be used for commercial fishing, marine, or aquaculture  
350 purposes ~~Adjacent to state-owned submerged lands designated as~~  
351 ~~an aquatic preserve identified in s. 258.39; or~~

352 ~~(e) That provide a demonstrable benefit to the local~~  
353 ~~economy.~~

354 Section 4. Notwithstanding any other provision of this  
355 act, the amendment to s. 380.5105, Florida Statutes, made by  
356 this act shall not operate retroactively to January 1, 2010, and  
357 any project funded under s. 380.5105, Florida Statutes, prior to  
358 June 30, 2010, shall retain its status as a funded project.

359 Section 5. For the 2010 calendar year, an application for  
360 classification as working waterfront under s. 193.704, Florida  
361 Statutes, must be filed on or before July 1 instead of on or  
362 before March 1.

363 Section 6. The Department of Revenue may adopt emergency  
364 rules to administer s. 193.704, Florida Statutes, as created by

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365 this act. The emergency rules shall remain in effect for 6  
366 months after adoption and may be renewed during the pendency of  
367 procedures to adopt rules addressing the subject of the  
368 emergency rules.

369 Section 7. If any provision of this act or the application  
370 thereof to any person or circumstance is held invalid, the  
371 invalidity does not affect other provisions or applications of  
372 the act which can be given effect without the invalid provision  
373 or application, and to this end the provisions of this act are  
374 severable.

375 Section 8. Except as otherwise expressly provided in this  
376 act, this act shall take effect upon becoming a law and shall  
377 operate retroactively to January 1, 2010.