

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

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29 providing for the classification of land as working  
 30 waterfront property on an assessment roll; 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  
 36 to 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, 2011, and thereafter, the term:

43 (a) "Accessible to the public" means routinely available  
 44 to the public from sunrise to sunset, with or without charge,  
 45 with 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 which support a  
 50 commercial fishing operation as defined in paragraph (c), or an  
 51 aquaculture operation licensed under chapter 253.

52 (c) "Commercial fishing operation" has the same meaning as  
 53 that 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

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

60 (e) "Land used predominantly for commercial fishing  
61 purposes" means land used in good faith in a venture 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 authorized under ss. 253.67-253.75.

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 and with no automatic renewal  
70 rights or conditions. The term excludes mooring or storage that  
71 is purchased, received, or rented as a result of homeownership  
72 or 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.

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

81 (j) "Repair" includes retrofitting and maintenance of  
82 vessels.

83 (k) "Support facility" means a facility that typically is  
84 colocated with marine vessel construction and repair facilities,

85 including, but not limited to, shops, equipment, and salvage  
 86 facilities.

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

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

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

95 (2) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.--

96 (a) The following waterfront properties are eligible for  
 97 classification as working waterfront property:

98 1. Land used predominantly for commercial fishing  
 99 purposes.

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

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

103 4. Water-dependent marine manufacturing facilities.

104 5. Water-dependent commercial fishing facilities.

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

107 (b) Property classified as working waterfront property  
 108 under this section shall be assessed on the basis of current  
 109 use.

110 1. If appropriate to the property, the assessed value  
 111 shall be calculated using the income approach to value, and  
 112 using a capitalization rate based upon the debt coverage ratio

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113 formula. The capitalization rate shall be calculated and updated  
114 annually. The capitalization rate shall be based on data that is  
115 county specific unless insufficient data is available, in which  
116 case the property appraisers shall use data from counties with  
117 similar conditions and characteristics, or data provided by the  
118 department. The condition and size of the property shall also be  
119 taken into account when assessing the property.

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

123 a. The condition of the property.

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

126 c. The income produced by the property.

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

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

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141 classified as working waterfront property in the prior year may  
142 reapply on a short form provided by the department. The lessee  
143 of property may make original application or reapply on a short  
144 form if the lease, or an affidavit executed by the owner,  
145 provides that the lessee is empowered to make application for  
146 the working waterfront classification on behalf of the owner and  
147 a copy of the lease or affidavit accompanies the application. An  
148 applicant may withdraw an application on or before the 25th day  
149 following the mailing of the notice of proposed property taxes  
150 pursuant to s. 200.069 in the year the application was filed.

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

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

168 4. Notwithstanding subparagraph 2., a new application for

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169 classification as working waterfront property must be filed with  
170 the property appraiser whenever any property granted the  
171 classification as working waterfront property is sold or  
172 otherwise disposed of, whenever ownership or the lessee changes  
173 in any manner, whenever the owner or the lessee ceases to use  
174 the property as working waterfront property, or whenever the  
175 status of the owner or the lessee changes so as to change the  
176 classified status of the property.

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

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

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

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

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

221 8. The property appraiser shall have available at his or  
222 her office a list by ownership of all applications for  
223 classification as working waterfront property received, showing  
224 the acreage, the full valuation under s. 193.011, the value of

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225 the land under the provisions of this subsection, and whether or  
226 not the classification was granted.

227 (3) DENIAL OF CLASSIFICATION; APPEAL.--

228 (a) The property appraiser shall notify an applicant for a  
229 working waterfront classification in writing of a denial of an  
230 application for such classification on or before July 1 of the  
231 year for which the application was filed. The notification shall  
232 advise the applicant of his or her right to appeal to the value  
233 adjustment board and of the appeal filing deadline.

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

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

251 (d)1. Property that has received a working waterfront  
252 classification from the value adjustment board or a court of

253 competent jurisdiction under this subsection is entitled to  
 254 receive such classification in any subsequent year until such  
 255 use is changed, abandoned, or discontinued or the ownership  
 256 changes in any manner as provided in subparagraph (2)(c)4. The  
 257 property appraiser shall, no later than January 31 of each year,  
 258 provide notice to the property owner or lessee receiving a  
 259 classification under this subsection requiring the property  
 260 owner or a lessee qualified to make application to certify that  
 261 the ownership and the use of the property has not changed. The  
 262 department shall prescribe by rule the form of the notice to be  
 263 used by the property appraiser.

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

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

275 195.073 Classification of property.--All items required by  
 276 law to be on the assessment rolls must receive a classification  
 277 based upon the use of the property. The department shall  
 278 promulgate uniform definitions for all classifications. The  
 279 department may designate other subclassifications of property.  
 280 No assessment roll may be approved by the department which does

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281 not show proper classifications.

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

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

287 1. Single family.

288 2. Mobile homes.

289 3. Multifamily.

290 4. Condominiums.

291 5. Cooperatives.

292 6. Retirement homes.

293 (b) Commercial and industrial.

294 (c) Agricultural.

295 (d) Nonagricultural acreage.

296 (e) High-water recharge.

297 (f) Historic property used for commercial or certain  
 298 nonprofit purposes.

299 (g) Exempt, wholly or partially.

300 (h) Centrally assessed.

301 (i) Leasehold interests.

302 (j) Time-share property.

303 (k) Land assessed under s. 193.501.

304 (l) Working waterfront property.

305 (m)~~(l)~~ Other.

306 Section 3. This act shall take effect July 1, 2010.