

By Senator Diaz de la Portilla

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

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30 property on an assessment roll; amending s. 380.5105,  
31 F.S.; providing program objectives for the Stan  
32 Mayfield Working Waterfronts Program and the Florida  
33 Forever program for purposes of selecting certain  
34 projects; deleting project selection criteria;  
35 providing for nonretroactive operation of certain  
36 provisions; providing for continuation of funded  
37 status for certain projects; providing an alternate  
38 application deadline date for the 2011 calendar year;  
39 authorizing the Department of Revenue to adopt  
40 emergency rules; providing for severability; providing  
41 for retroactive operation; providing effective dates.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Section 193.704, Florida Statutes, is created to  
46 read:

47 193.704 Working waterfront property; definitions;  
48 classification and assessment; denial of classification and  
49 appeal.-

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

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

58 (b) "Commercial fishing facility" means docks, piers,

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59 processing houses, or other facilities that support a commercial  
60 fishing operation or an aquaculture operation certified under  
61 chapter 597.

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

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

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

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

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

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

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

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88 public and accessible during normal operating hours.

89 (j) "Repair" includes retrofitting and maintenance of  
90 vessels.

91 (k) "Right-of-way" has the same meaning as provided in s.  
92 334.03.

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

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

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

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

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

110 3. The property that is separated from the water by the  
111 right-of-way has direct access to the water by crossing the  
112 right-of-way.

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

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

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117 (a) The following waterfront properties are eligible for  
118 classification as working waterfront property:

- 119 1. Land used predominantly for commercial fishing purposes.  
120 2. Land that is accessible to the public and used for  
121 vessel launches into waters that are navigable.  
122 3. Marinas and drystacks that are open to the public.  
123 4. Water-dependent marine manufacturing facilities.  
124 5. Water-dependent commercial fishing facilities.  
125 6. Water-dependent marine vessel construction and repair  
126 facilities and their support facilities.

127 7. Water-dependent facilities that are located in a county  
128 defined in s. 125.011(1) and used:

129 a. For the commercial transportation of goods and people to  
130 and from foreign ports; or

131 b. To provide towing, storage, and salvage in support of  
132 the facilities described in sub-subparagraph a.

133 (b) Property classified as working waterfront property  
134 under this section shall be assessed on the basis of current  
135 use.

136 1. If the income approach to value is appropriate to the  
137 property and if adequate local data on comparable rental rates,  
138 expense rates, and vacancy rates are available to the property  
139 appraiser, the assessed value shall be established using the  
140 income approach to value, using an overall capitalization rate  
141 based upon the debt coverage ratio formula, adjusted for the  
142 effective tax rate. The overall capitalization rate shall be  
143 calculated annually and shall be based on local data.

144 2. If the conditions required for assessment under  
145 subparagraph 1. are not satisfied, the property appraiser shall

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146 value the property at its present cash value as if it were  
147 required to remain in its current use into the foreseeable  
148 future.

149 3. The assessed value of the property may not exceed just  
150 value under any circumstances.

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

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

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175 applicant may withdraw an application on or before the 25th day  
176 following the mailing of the notice of proposed property taxes  
177 pursuant to s. 200.069 in the year the application was filed.

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

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

198 4. Notwithstanding subparagraph 3., a new application for  
199 classification as working waterfront property must be filed with  
200 the property appraiser whenever any property granted the  
201 classification as working waterfront property is sold or  
202 otherwise disposed of, ownership or the lessee changes in any  
203 manner, the owner or the lessee ceases to use the property as

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204 working waterfront property, or the status of the owner or the  
205 lessee changes so as to change the classified status of the  
206 property.

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

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

230 b. The property appraiser making such determination shall  
231 record in the public records of the county in which the working  
232 waterfront property is located a notice of tax lien against any



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

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

251 (3) DENIAL OF CLASSIFICATION; APPEAL.—

252 (a) If an application for working waterfront classification  
253 is made by March 1, the property appraiser shall notify the  
254 applicant in writing of a denial of the application on or before  
255 July 1 of the year for which the application was filed. The  
256 notification shall advise the applicant of his or her right to  
257 appeal to the value adjustment board and of the appeal filing  
258 deadline.

259 (b) Any applicant whose application for classification as  
260 working waterfront property is denied by the property appraiser  
261 may appeal to the value adjustment board by filing a petition

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262 requesting that the classification be granted. The petition may  
263 be filed on or before the 25th day following the mailing of the  
264 assessment notice by the property appraiser as required under s.  
265 194.011(1). The petitioner shall pay a nonrefundable fee of \$15  
266 upon filing the petition. Upon the value adjustment board's  
267 review of the petition, if the petitioner is qualified to  
268 receive the classification, the value adjustment board may grant  
269 the petition and classification.

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

273 (d) Property that has received a working waterfront  
274 classification from the value adjustment board or a court of  
275 competent jurisdiction under this subsection is entitled to  
276 receive such classification in any subsequent year until such  
277 use is changed, abandoned, or discontinued, or the ownership  
278 changes in any manner as provided in subparagraph (2)(c)4. The  
279 property appraiser shall, no later than January 31 of each year,  
280 provide notice to the property owner or lessee receiving a  
281 classification under this subsection requiring the property  
282 owner or a lessee qualified to make application to certify that  
283 the ownership and the use of the property has not changed. The  
284 department shall prescribe by rule the form of the notice to be  
285 used by the property appraiser.

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

288 195.073 Classification of property.—All items required by  
289 law to be on the assessment rolls must receive a classification  
290 based upon the use of the property. The department shall

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291 promulgate uniform definitions for all classifications. The  
292 department may designate other subclassifications of property.  
293 No assessment roll may be approved by the department which does  
294 not show proper classifications.

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

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

300 1. Single family.

301 2. Mobile homes.

302 3. Multifamily.

303 4. Condominiums.

304 5. Cooperatives.

305 6. Retirement homes.

306 (b) Commercial and industrial.

307 (c) Agricultural.

308 (d) Nonagricultural acreage.

309 (e) High-water recharge.

310 (f) Historic property used for commercial or certain  
311 nonprofit purposes.

312 (g) Exempt, wholly or partially.

313 (h) Centrally assessed.

314 (i) Leasehold interests.

315 (j) Time-share property.

316 (k) Land assessed under s. 193.501.

317 (l) Working waterfront property.

318 (m)~~(l)~~ Other.

319 Section 3. Effective July 1, 2011, subsection (2) of

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320 section 380.5105, Florida Statutes, is amended to read:

321 380.5105 The Stan Mayfield Working Waterfronts; Florida  
322 Forever program.—

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

333 (a) The projects demonstrate a strong contribution to the  
334 preservation of this state's commercial fishing, marine, or  
335 aquaculture industries. ~~Within a municipality with a population~~  
336 ~~less than 30,000;~~

337 (b) The projects are located in areas being converted or  
338 threatened with conversion to uses that are incompatible with  
339 working waterfront uses or are not marine or fishing uses.  
340 ~~Within a municipality or area under intense growth and~~  
341 ~~development pressures, as evidenced by a number of factors,~~  
342 ~~including a determination that the municipality's growth rate~~  
343 ~~exceeds the average growth rate for the state;~~

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

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

354           ~~(e) That provide a demonstrable benefit to the local~~  
355 ~~economy.~~

356           Section 4. Notwithstanding any other provision of this act,  
357 the amendment to s. 380.5105, Florida Statutes, made by this act  
358 shall not operate retroactively to January 1, 2011, and any  
359 project funded under s. 380.5105, Florida Statutes, prior to  
360 June 30, 2011, shall retain its status as a funded project.

361           Section 5. For the 2011 calendar year, an application for  
362 classification as working waterfront under s. 193.704, Florida  
363 Statutes, must be filed on or before July 1 instead of on or  
364 before March 1.

365           Section 6. The Department of Revenue may adopt emergency  
366 rules to administer s. 193.704, Florida Statutes, as created by  
367 this act. The emergency rules shall remain in effect for 6  
368 months after adoption and may be renewed during the pendency of  
369 procedures to adopt rules addressing the subject of the  
370 emergency rules.

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

377           Section 8. Except as otherwise expressly provided in this

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378 act, this act shall take effect upon becoming a law and shall  
379 operate retroactively to January 1, 2011.