

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: CS/ SB 404

INTRODUCER: Agriculture/ Senator Rodriguez

SUBJECT: Aquaculture Land Valuation

DATE: February 10, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fink</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 404 provides that land used in the production of aquaculture products shall be assessed based solely on its agricultural use. The bill also provides that, for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products are considered a part of the average yield per acre and carry no separately contributory, or taxable, value. When utilizing the income methodology approach under this section, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in current law.

The bill further provides that once a request for assessment of land used in aquaculture production is approved, the property must be assessed under the same method of assessment for 10 years, unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application for agricultural assessment. If a proper application for agricultural assessment is not made, the property shall be assessed based on its just, or market, value. The bill provides that the provisions apply to assessments made on or after January 1, 2023.

The bill also amends s. 597.003(1)(a), F.S., to clarify that an aquaculture certificate of registration applies to a facility versus an entity.

The Revenue Estimating Conference (REC) has not reviewed the fiscal impact of this version of the bill. REC staff estimates that the bill will reduce local property tax revenues by \$8.4 million in Fiscal Year 2023-2024, with a recurring \$7.5 million reduction.

The bill takes effect January 1, 2023.

II. Present Situation:

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.¹ As provided by statute,² an ad valorem tax is a tax assessed upon the value of property.³ The term "property tax" may be used interchangeably with the term "ad valorem tax."⁴ The term "ad valorem" applies to both real and personal property.⁵

However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.⁶ Property owners denied classifications or exemptions by the property appraiser may appeal to the value adjustment board.⁷

Agricultural Classification and Assessment

Pursuant to s. 4, Art. VII of the State Constitution, all agricultural land is assessed solely on the basis of its character or use.⁸ For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes."⁹ Section 193.461(5), F.S., defines "agricultural purposes" to include, but is not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; all forms of farm products and farm production.¹⁰

Agricultural classification for land valuation was first created by s. 193.201, F.S. in 1959 because of the express finding that ". . . much of the recent real estate development has tended to increase assessments on farm and agricultural lands and other agricultural products to unreasonable and unprofitable proportions, thus forcing many persons to give up their livelihood because of being taxed out of existence."¹¹

¹ Art. VII, s. 4. of the Florida Constitution

² § 192.001(1), Fla. Stat.

³ *Gilreath v. Westgate Daytona, Ltd.*, 871 So. 2d 961 (Fla. 5th DCA 2004).

⁴ § 192.001(1), Fla. Stat.

⁵ *Smith v. American Airlines, Inc.*, 606 So. 2d 618 (Fla. 1992).

⁶ See s. 196.031, F.S.

⁷ See ss. 193.461, 193.503, and 193.625, F.S.

⁸ Art. VII, s. 4(a), of the Florida Constitution.

⁹ Section 193.461(3)(b), F.S.

¹⁰ Section 193.461(5), F.S.

¹¹ Ch. 59-226, Laws of Florida [s. 193.201, F. S. 1959](see also Fl. Att’y Gen. Op. No. AGO 75-134 (May 9, 1975)).

Income Methodology Approach

Section 193.461, F.S., provides requirements and directions to property appraisers for the assessment of agricultural lands. There are listed criteria for assessment, one of which is the income methodology approach which uses actual agricultural production on a parcel of property as a measure of the value of that particular property. Under this approach, productive agricultural property is assessed in a manner that reflects the rises and falls in the agriculture business by using a five-year moving average to establish the property's value.¹²

III. Effect of Proposed Changes:

SB 404 creates s. 193.4611, F.S., and provides that aquaculture-use land shall be assessed based solely on its agricultural use, consistent with s. 193.461(6)(a), F.S.

The bill also requires that for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products are considered a part of the average yield per acre and carry no separately contributory, or taxable, value.

The bill also requires that when utilizing the income methodology approach, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in s. 192.042, F.S.

This bill further provides that once a request for assessment under s. 193.4613, F.S. is approved, the property must be assessed under the same method of assessment, as provided in s. 193.4613, F.S., for 10 years unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application for agricultural assessment.

The bill also requires that if a proper application for agricultural assessment is not made, the property shall be assessed based on its just, or market, value, pursuant to s. 193.011, F.S.

The bill provides that the provisions apply to assessments made on or after January 1, 2023.

The bill also amends s. 597.003(1)(a), F.S., to clarify that an aquaculture certificate of registration applies to a facility versus an entity.

The bill takes effect January 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹² See s. 193.461, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference (REC) has not reviewed the fiscal impact of this version of the bill. REC staff estimates that the bill will reduce local property taxes by \$8.4 million in Fiscal Year 2021-2024, with a recurring \$7.5 million reduction.

B. Private Sector Impact:

None.

C. Government Sector Impact:**VI. Technical Deficiencies:**

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 193.4611 of the Florida Statutes.

The bill substantially amends section 597.003 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on February 10, 2022:

The amendment creates s. 193.4611, F.S, rather than adding on to s. 193.461, F.S., and adds a number of provisions to the bill.

The amendment adds definitions for "aquaculture" and "aquaculture products," establishing that these terms have the same meanings as in s. 597.0015, F.S. It requires that when proper application has been made for agricultural assessment, land used in the production of aquaculture products shall be assessed solely on its agricultural use. It also requires property appraisers to rely on 5-year moving average data when using the income methodology approach in an assessment of such property.

The amendment maintains the requirement that, for purposes of the income methodology approach to the assessment of land used to produce aquaculture products, structures and equipment are considered part of the average yield per acre, rather than separately assessable value. It requires that once a request has been made for agricultural assessment, the property must be assessed in this manner for 10 years, unless the ownership or use of the property changes. The property appraiser may not require annual application, but may require annual audited financial statements. When proper application has not been made, the land shall be assessed as provided in s. 193.011, F.S. This assessment methodology applies to assessments made on or after January 1, 2023.

The amendment amends s. 597.003(1)(a), F.S., to clarify that an aquaculture certificate of registration applies to a facility versus an entity.

The effective date is changed from July 1, 2022 to January 1, 2023.

- B. **Amendments:**

None.