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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/28/2010 10:39 AM

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Senator Altman moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

193.704 Working waterfront property; definitions;  
classification and assessment; denial of classification and  
appeal.—

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

(a) "Accessible to the public" means routinely available to



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14 the public from sunrise to sunset, with or without charge, with  
15 appropriate accommodations, including, but not limited to,  
16 public parking or public boat ramps that are available for use  
17 by the general public.

18 (b) "Commercial fishing facility" means docks, piers,  
19 processing houses, or other facilities that support a commercial  
20 fishing operation or an aquaculture operation certified under  
21 chapter 597.

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

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

29 (e) "Land used predominantly for commercial fishing  
30 purposes" means land used in good faith in a for-profit  
31 commercial fishing operation for the taking or harvesting of  
32 freshwater fish or saltwater products, as defined in s. 379.101,  
33 for which a commercial license to take, harvest, or sell such  
34 fish or products is required under chapter 379, or land used in  
35 an aquaculture operation certified under chapter 597.

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

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



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43           (h) "Marine vessel construction and repair facility" means  
44 a facility that constructs and repairs vessels that travel over  
45 waters that are navigable, including, but not limited to,  
46 shipyards and boatyards.

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

49           (j) "Repair" includes retrofitting and maintenance of  
50 vessels.

51           (k) "Right-of-way" has the same meaning as provided in s.  
52 334.03.

53           (l) "Support facility" means a facility that typically is  
54 colocated with marine vessel construction and repair facilities,  
55 including, but not limited to, shops, equipment, and salvage  
56 facilities.

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

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

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

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

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



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72 right-of-way.

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

76 (2) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.—

77 (a) The following waterfront properties are eligible for  
78 classification as working waterfront property:

79 1. Land used predominantly for commercial fishing purposes.

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

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

83 4. Water-dependent marine manufacturing facilities.

84 5. Water-dependent commercial fishing facilities.

85 6. Water-dependent marine vessel construction and repair  
86 facilities and their support facilities.

87 7. Water-dependent facilities located in a county defined  
88 in s. 125.011(1):

89 a. Used for the commercial transportation of goods and  
90 people to and from foreign ports; or

91 b. Used to provide towing, storage, and salvage in support  
92 of the facilities described in sub-subparagraph a.

93 (b) Property classified as working waterfront property  
94 under this section shall be assessed on the basis of current  
95 use.

96 1. If the income approach to value is appropriate to the  
97 property and if adequate local data on comparable rental rates,  
98 expense rates, and vacancy rates are available to the property  
99 appraiser, the assessed value shall be established using the  
100 income approach to value, using an overall capitalization rate



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101 based upon the debt coverage ratio formula, adjusted for the  
102 effective tax rate. The overall capitalization rate shall be  
103 calculated annually and shall be based on local data.

104 2. If the conditions required for assessment under  
105 subparagraph 1. are not satisfied, the property appraiser shall  
106 value the property at its present cash value as if it were  
107 required to remain in its current use into the foreseeable  
108 future.

109 3. In no event shall the assessed value of the property  
110 exceed just value.

111 4. When a parcel contains uses eligible for assessment  
112 under this section and uses that are not eligible for assessment  
113 under this section, those portions of the property that are not  
114 eligible for assessment under this section must be assessed  
115 separately as otherwise provided by this chapter.

116 (c)1. Property may not be classified as working waterfront  
117 property unless an application for such classification is filed  
118 with the property appraiser on or before March 1 of each year in  
119 the county in which the property is located. Before approving  
120 such classification, the property appraiser may require the  
121 applicant to establish that the property is actually used as  
122 required under this section. The property appraiser may require  
123 the applicant to furnish the property appraiser such information  
124 as may reasonably be required to establish that such property  
125 was actually used for working waterfront purposes, and to  
126 establish the classified use value of the property, including  
127 income and expense data. The owner or lessee of the property  
128 classified as working waterfront property in the prior year may  
129 reapply on a short form provided by the Department of Revenue.



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130 The lessee of property may make original application or reapply  
131 on a short form if the lease, or an affidavit executed by the  
132 owner, provides that the lessee is empowered to make application  
133 for the working waterfront classification on behalf of the owner  
134 and a copy of the lease or affidavit accompanies the  
135 application. An applicant may withdraw an application on or  
136 before the 25th day following the mailing of the notice of  
137 proposed property taxes pursuant to s. 200.069 in the year the  
138 application was filed.

139 2. Failure of a property owner or lessee to apply for a  
140 classification as working waterfront property by March 1  
141 constitutes a waiver for 1 year of the privilege granted in this  
142 section. However, a person who is qualified to receive a working  
143 waterfront classification but who fails to timely apply for  
144 classification may file an application for classification with  
145 the property appraiser on or before the 25th day following the  
146 mailing of proposed property taxes pursuant to s. 200.069. Upon  
147 review of the application, if the applicant is qualified to  
148 receive the classification and demonstrates particular  
149 extenuating circumstances that warrant the classification, the  
150 property appraiser may grant the classification.

151 3. A county, at the request of the property appraiser and  
152 by a majority vote of its governing body, may waive the  
153 requirement that an annual application or short form be filed  
154 with the property appraiser for renewal of the classification of  
155 property within the county as working waterfront property. Such  
156 waiver may be revoked by a majority vote of the county governing  
157 body.

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



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159 classification as working waterfront property must be filed with  
160 the property appraiser whenever any property granted the  
161 classification as working waterfront property is sold or  
162 otherwise disposed of, whenever ownership or the lessee changes  
163 in any manner, whenever the owner or the lessee ceases to use  
164 the property as working waterfront property, or whenever the  
165 status of the owner or the lessee changes so as to change the  
166 classified status of the property.

167 5. The property appraiser shall remove from the  
168 classification as working waterfront property any property for  
169 which the classified use has been abandoned or discontinued, or  
170 if the property has been diverted to an unclassified use. Such  
171 removed property shall be assessed at just value as provided in  
172 s. 193.011.

173 6.a. The owner of any property classified as working  
174 waterfront property who is not required to file an annual  
175 application under this section, and the lessee if the  
176 application was made by the lessee, shall notify the property  
177 appraiser promptly whenever the use of the property or the  
178 status or condition of the owner or lessee changes so as to  
179 change the classified status of the property. If any such  
180 property owner or lessee fails to notify the property appraiser  
181 and the property appraiser determines that for any year within  
182 the prior 10 years the owner was not entitled to receive such  
183 classification, the owner of the property is subject to taxes  
184 otherwise due and owing as a result of such failure plus 15  
185 percent interest per annum and a penalty of 50 percent of the  
186 additional taxes owed. However, the penalty may be waived if the  
187 owner or lessee can demonstrate that he or she took reasonable



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188 care to notify the property appraiser of the change in use,  
189 status, or condition of the property.

190 b. The property appraiser making such determination shall  
191 record in the public records of the county in which the working  
192 waterfront property is located a notice of tax lien against any  
193 property owned by the working waterfront property owner, and  
194 such property must be identified in the notice of tax lien. Such  
195 property is subject to the payment of all taxes and penalties.  
196 Such lien, when filed, attaches to any property identified in  
197 the notice of tax lien owned by the person or entity that  
198 illegally or improperly received the classification. If such  
199 person or entity no longer owns property in that county but owns  
200 property in another county or counties in the state, the  
201 property appraiser shall record in such other county or counties  
202 a notice of tax lien identifying the property owned by the  
203 working waterfront property owner in such county or counties  
204 which shall become a lien against the identified property.

205 7. The property appraiser shall have available at his or  
206 her office a list by ownership of all applications for  
207 classification as working waterfront property received, showing  
208 the acreage, the just valuation under s. 193.011, the value of  
209 the land under the provisions of this subsection, and whether  
210 the classification was granted.

211 (3) DENIAL OF CLASSIFICATION; APPEAL.-

212 (a) If an application for working waterfront classification  
213 is made by March 1, the property appraiser shall notify the  
214 applicant in writing of a denial of the application on or before  
215 July 1 of the year for which the application was filed. The  
216 notification shall advise the applicant of his or her right to





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217 appeal to the value adjustment board and of the appeal filing  
218 deadline.

219 (b) Any applicant whose application for classification as  
220 working waterfront property is denied by the property appraiser  
221 may appeal to the value adjustment board by filing a petition  
222 requesting that the classification be granted. The petition may  
223 be filed on or before the 25th day following the mailing of the  
224 assessment notice by the property appraiser as required under s.  
225 194.011(1). The petitioner shall pay a nonrefundable fee of \$15  
226 upon filing the petition. Upon the value adjustment board's  
227 review of the petition, if the petitioner is qualified to  
228 receive the classification, the value adjustment board may grant  
229 the petition and classification.

230 (c) A denial of a petition for classification by the value  
231 adjustment board may be appealed to a court of competent  
232 jurisdiction.

233 (d) Property that has received a working waterfront  
234 classification from the value adjustment board or a court of  
235 competent jurisdiction under this subsection is entitled to  
236 receive such classification in any subsequent year until such  
237 use is changed, abandoned, or discontinued, or the ownership  
238 changes in any manner as provided in subparagraph (2)(c)4. The  
239 property appraiser shall, no later than January 31 of each year,  
240 provide notice to the property owner or lessee receiving a  
241 classification under this subsection requiring the property  
242 owner or a lessee qualified to make application to certify that  
243 the ownership and the use of the property has not changed. The  
244 department shall prescribe by rule the form of the notice to be  
245 used by the property appraiser.



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

248 195.073 Classification of property.—All items required by  
249 law to be on the assessment rolls must receive a classification  
250 based upon the use of the property. The department shall  
251 promulgate uniform definitions for all classifications. The  
252 department may designate other subclassifications of property.  
253 No assessment roll may be approved by the department which does  
254 not show proper classifications.

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

257 (a) Residential, subclassified into categories, one  
258 category for homestead property and one for nonhomestead  
259 property:

260 1. Single family.

261 2. Mobile homes.

262 3. Multifamily.

263 4. Condominiums.

264 5. Cooperatives.

265 6. Retirement homes.

266 (b) Commercial and industrial.

267 (c) Agricultural.

268 (d) Nonagricultural acreage.

269 (e) High-water recharge.

270 (f) Historic property used for commercial or certain  
271 nonprofit purposes.

272 (g) Exempt, wholly or partially.

273 (h) Centrally assessed.

274 (i) Leasehold interests.



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- 275 (j) Time-share property.
- 276 (k) Land assessed under s. 193.501.
- 277 (l) Working waterfront property.
- 278 (m)~~(l)~~ Other.

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

281 380.5105 The Stan Mayfield Working Waterfronts; Florida  
282 Forever program.—

283 (2) The trust and the Department of Agriculture and  
284 Consumer Services shall jointly develop rules specifically  
285 establishing an application process and a process for the  
286 evaluation, scoring and ranking of working waterfront  
287 acquisition projects. The proposed rules jointly developed  
288 pursuant to this subsection shall be adopted ~~promulgated~~ by the  
289 trust. Such rules shall ensure that the following general  
290 program objectives are considered in selecting ~~establish a~~  
291 ~~system of weighted criteria to give increased priority to~~  
292 projects:

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

297 (b) That projects are located in areas being converted or  
298 threatened with conversion to uses that are incompatible with  
299 working waterfront uses or are not marine or fishing uses.  
300 ~~Within a municipality or area under intense growth and~~  
301 ~~development pressures, as evidenced by a number of factors,~~  
302 ~~including a determination that the municipality's growth rate~~  
303 ~~exceeds the average growth rate for the state;~~



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

309           (d) That projects have been used for commercial fishing,  
310 marine, or aquaculture purposes or would create an opportunity  
311 to be used for commercial fishing, marine, or aquaculture  
312 purposes ~~Adjacent to state-owned submerged lands designated as~~  
313 ~~an aquatic preserve identified in s. 258.39; or~~

314           ~~(e) That provide a demonstrable benefit to the local~~  
315 ~~economy.~~

316           Section 4. Notwithstanding any other provision of this act,  
317 the amendment to s. 380.5105, Florida Statutes, made by this act  
318 shall not operate retroactively to January 1, 2010, and any  
319 project funded under s. 380.5105, Florida Statutes, prior to  
320 June 30, 2010, shall retain its status as a funded project.

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

325           Section 6. The Department of Revenue may adopt emergency  
326 rules to administer s. 193.704, Florida Statutes, as created by  
327 this act. The emergency rules shall remain in effect for 6  
328 months after adoption and may be renewed during the pendency of  
329 procedures to adopt rules addressing the subject of the  
330 emergency rules.

331           Section 7. If any provision of this act or the application  
332 thereof to any person or circumstance is held invalid, the



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333 invalidity does not affect other provisions or applications of  
334 the act which can be given effect without the invalid provision  
335 or application, and to this end the provisions of this act are  
336 severable.

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

340  
341 ===== T I T L E A M E N D M E N T =====

342 And the title is amended as follows:

343 Delete everything before the enacting clause  
344 and insert:

345 A bill to be entitled  
346 An act relating to working waterfront property;  
347 creating s. 193.704, F.S.; providing definitions;  
348 specifying property that is eligible for  
349 classification as working waterfront property;  
350 requiring the assessment of working waterfront  
351 property based on current use; requiring an  
352 application for classification of property as working  
353 waterfront property; authorizing a property appraiser  
354 to approve an application that is not filed by a  
355 certain deadline due to extenuating circumstances;  
356 providing for the waiver of annual application  
357 requirements; providing for the loss of classification  
358 upon a change of ownership or use; requiring that  
359 property owners notify the property appraiser of  
360 changes in use or ownership of property; imposing a  
361 penalty on a property owner who fails to notify the



362 property appraiser of an event resulting in the  
363 unlawful or improper classification of property as  
364 working waterfront property; requiring the imposition  
365 of tax liens to recover penalties and interest;  
366 providing for the assessment of a portion of property  
367 within a working waterfront property which is not used  
368 as working waterfront property; requiring that a  
369 property appraiser make a list relating to  
370 applications to certify property as working waterfront  
371 property; providing an appeal process for an  
372 application that has been denied; amending s. 195.073,  
373 F.S.; providing for the classification of land as  
374 working waterfront property on an assessment roll;  
375 providing an alternate application deadline date for  
376 calendar year 2010; amending s. 380.5105, F.S.;  
377 providing program objectives for the Stan Mayfield  
378 Working Waterfronts Program and the Florida Forever  
379 program for purposes of selecting certain projects;  
380 deleting project selection criteria; providing for  
381 nonretroactive operation of certain provisions;  
382 providing for continuation of funded status for  
383 certain projects; providing emergency rulemaking  
384 authority for the Department of Revenue; providing for  
385 severability; providing for retroactive operation;  
386 providing effective dates.