



112284

LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
04/07/2010	.	
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The Committee on Community Affairs (Altman) recommended 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) INTENT.—The Legislature recognizes that Florida's traditional working waterfronts are important to the state's heritage and economic vitality and that the conversion of



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13 working waterfronts to exclusively private uses limits public
14 access to the state's waterways for recreational boating,
15 fishing, and other commercial water-dependent activities. The
16 Legislature also recognizes that the conversion of traditional
17 working waterfronts to exclusively private uses often causes an
18 increase in property taxes on nearby working waterfronts when
19 these waterfronts are assessed at their highest and best use. It
20 is the intent of the Legislature that working waterfront
21 property, including water-dependent commercial transportation
22 facilities and their water-dependent support facilities, be
23 assessed at the property's current use, as provided by s. 4(j),
24 Art. VII of the State Constitution.

25 (1) DEFINITIONS.—As used in this section, the term:

26 (a) "Accessible to the public" means routinely available to
27 the public from sunrise to sunset, with or without charge, and
28 having appropriate accommodations, including, but not limited
29 to, public parking or public boat ramps that are available for
30 use by the general public.

31 (b) "Commercial fishing facility" means docks, piers,
32 processing houses, or other facilities that support a commercial
33 fishing operation or an aquaculture operation certified under
34 chapter 597.

35 (c) "Commercial fishing operation" has the same meaning as
36 that provided in s. 379.2351.

37 (d) "Drystack" means a licensed commercial vessel storage
38 facility or building in which storage spaces for vessels are
39 available for use by the public on a first-come, first-served
40 basis. The term excludes storage that is purchased, received, or
41 rented as a result of homeownership or tenancy.



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42 (e) "Land used predominantly for commercial fishing
43 purposes" means land used in good faith in a for-profit
44 commercial fishing operation for the taking or harvesting of
45 freshwater fish or saltwater products, as defined in s. 379.101,
46 for which a commercial license to take, harvest, or sell such
47 fish or products is required under chapter 379, or land used in
48 an aquaculture operation certified under chapter 597.

49 (f) "Marina" means a licensed commercial facility that
50 provides secured public docks or moorings or drystacks for
51 vessels on a first-come, first-served basis. The term excludes
52 dockage, mooring, or storage that is purchased, received, or
53 rented as a result of homeownership or tenancy.

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

56 (h) "Marine vessel construction and repair facility" means
57 a facility that constructs and repairs vessels that travel over
58 waters that are navigable, including, but not limited to,
59 shipyards and boatyards.

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

62 (j) "Repair" includes retrofitting and maintenance of
63 vessels.

64 (k) "Right of way" has the same meaning as provided in s.
65 334.03.

66 (l) "Support facility" means a facility that typically is
67 collocated with marine vessel construction and repair
68 facilities, including, but not limited to, shops, equipment, and
69 salvage facilities.

70 (m) "Water-dependent" means that the activities performed



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71 in the facility can be conducted only on, in, over, or adjacent
72 to waters that are navigable, require direct access to water,
73 and involve the use of water as an integral part of such
74 activity.

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

79 1. The properties on both sides of the right-of-way are
80 under common ownership;

81 2. The properties on both sides of the right-of-way are
82 part of the same business enterprise;

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

86 (o) "Waters that are navigable" means water bodies that are
87 capable of supporting boating and that are used or may be used
88 in their ordinary condition as highways for commerce for which
89 trade or travel are or may be conducted in the customary modes
90 of trade or travel on water.

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

92 (a) The following waterfront properties are eligible for
93 classification as working waterfront property:

94 1. Land used predominantly for commercial fishing purposes.

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

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

98 4. Water-dependent marine manufacturing facilities.

99 5. Water-dependent commercial fishing facilities.



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100 6. Water-dependent marine vessel construction and repair
101 facilities and their support facilities.

102 7. Water-dependent facilities used for the commercial
103 transportation of goods and people.

104 8. Water-dependent facilities used for activities that
105 support the commercial transportation of goods and people. These
106 activities include, but are not limited to, towing, storage, and
107 salvage.

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

111 1. If the income approach to value is appropriate to the
112 property and if adequate local data on comparable rental rates,
113 expense rates, and vacancy rates are available to the property
114 appraiser, the assessed value shall be established using the
115 income approach to value, using an overall capitalization rate
116 based upon the debt coverage ratio formula, adjusted for the
117 effective tax rate. The overall capitalization rate shall be
118 calculated annually and shall be based on local data.

119 2. If the conditions required for assessment under
120 subparagraph 1. are not satisfied, the property appraiser shall
121 value the property at its present cash value as if it were
122 required to remain in its current use into the foreseeable
123 future.

124 3. In no event may the assessed value of the property
125 exceed just value.

126 4. If a parcel contains both uses eligible for assessment
127 under this section and uses that are not eligible for assessment
128 under this section, those portions of the property that are not



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129 eligible for assessment under this section must be assessed
130 separately as otherwise provided by this chapter.

131 (c)1. Property may not be classified as working waterfront
132 property unless an application for such classification is filed
133 with the property appraiser on or before March 1 of each year in
134 the county in which the property is located. Before approving
135 such classification, the property appraiser may require the
136 applicant to establish that the property is actually used as
137 required under this section. The property appraiser may require
138 the applicant to furnish the property appraiser such information
139 as may reasonably be required to establish that such property
140 was actually used for working waterfront purposes and to
141 establish the classified use value of the property, including
142 income and expense data. The owner or lessee of property
143 classified as working waterfront property in the prior year may
144 reapply on a short form provided by the department. The lessee
145 of property may make original application or reapply on a short
146 form if the lease, or an affidavit executed by the owner,
147 provides that the lessee is empowered to make application for
148 the working waterfront classification on behalf of the owner and
149 a copy of the lease or affidavit accompanies the application. An
150 applicant may withdraw an application on or before the 25th day
151 following the mailing of the notice of proposed property taxes
152 pursuant to s. 200.069 in the year the application was filed.

153 2. Any property owner or lessee who fails to file an
154 application for classification as working waterfront property by
155 March 1 may file an application for classification with the
156 property appraiser on or before the 25th day following the
157 mailing of the notice of proposed property taxes pursuant to s.



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158 200.069. Upon review of the application, if the applicant is
159 qualified to receive the classification and demonstrates
160 particular extenuating circumstances that warrant the
161 classification, the property appraiser may grant the
162 classification.

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

170 4. Notwithstanding subparagraph 2., a new application for
171 classification as working waterfront property must be filed with
172 the property appraiser whenever any property granted the
173 classification as working waterfront property is sold or
174 otherwise disposed of, ownership or the lessee changes in any
175 manner, the owner or the lessee ceases to use the property as
176 working waterfront property, or whenever the status of the owner
177 or the lessee changes so as to change the classified status of
178 the property.

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

185 6.a. The owner of any property classified as working
186 waterfront property who is not required to file an annual



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187 application under this section, and the lessee if the
188 application was made by the lessee, shall notify the property
189 appraiser promptly whenever the use of the property or the
190 status or condition of the owner or lessee changes, so as to
191 change the classified status of the property. If any such
192 property owner or lessee fails to notify the property appraiser
193 and the property appraiser determines that for any year within
194 the prior 10 years the owner was not entitled to receive such
195 classification, the owner of the property is subject to taxes
196 otherwise due and owing as a result of such failure plus 15
197 percent interest per annum and a penalty of 50 percent of the
198 additional taxes owed. However, the penalty may be waived if the
199 owner or lessee can demonstrate that he or she took reasonable
200 care to notify the property appraiser of the change in use,
201 status, or condition of the property.

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



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216 which shall become a lien against the identified property.

217 7. The property appraiser shall have available at his or
218 her office a list by ownership of all applications received for
219 classification of property as working waterfront property,
220 showing the acreage, the full valuation under s. 193.011, the
221 value of the land under the provisions of this subsection, and
222 whether the classification was granted.

223 (3) DENIAL OF CLASSIFICATION; APPEAL.—

224 (a) If an application for working waterfront classification
225 is made by March 1, the property appraiser shall notify the
226 applicant in writing of a denial of the application on or before
227 July 1 of the year for which the application was filed. The
228 notification shall advise the applicant of his or her right to
229 appeal to the value adjustment board and of the appeal filing
230 deadline.

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



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245 (c) A denial of a petition for classification by the value
246 adjustment board may be appealed to a court of competent
247 jurisdiction.

248 (d)1. Property that has received a working waterfront
249 classification from the value adjustment board or a court of
250 competent jurisdiction under this subsection is entitled to
251 receive such classification in any subsequent year until such
252 use is changed, abandoned, or discontinued or the ownership
253 changes in any manner as provided in subparagraph (2)(c)4. The
254 property appraiser shall, no later than January 31 of each year,
255 provide notice to the property owner or lessee receiving a
256 classification under this subsection requiring the property
257 owner or a lessee qualified to make application to certify that
258 the ownership and the use of the property has not changed. The
259 department shall prescribe by rule the form of the notice to be
260 used by the property appraiser.

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

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

272 195.073 Classification of property.—All items required by
273 law to be on the assessment rolls must receive a classification



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274 based upon the use of the property. The department shall
275 promulgate uniform definitions for all classifications. The
276 department may designate other subclassifications of property.
277 No assessment roll may be approved by the department which does
278 not show proper classifications.

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

281 (a) Residential, subclassified into categories, one
282 category for homestead property and one for nonhomestead
283 property:

284 1. Single family.

285 2. Mobile homes.

286 3. Multifamily.

287 4. Condominiums.

288 5. Cooperatives.

289 6. Retirement homes.

290 (b) Commercial and industrial.

291 (c) Agricultural.

292 (d) Nonagricultural acreage.

293 (e) High-water recharge.

294 (f) Historic property used for commercial or certain
295 nonprofit purposes.

296 (g) Exempt, wholly or partially.

297 (h) Centrally assessed.

298 (i) Leasehold interests.

299 (j) Time-share property.

300 (k) Land assessed under s. 193.501.

301 (l) Working waterfront property.

302 (m) ~~(l)~~ Other.



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303 Section 3. The Department of Revenue may adopt emergency
304 rules to administer s. 193.704, Florida Statutes, as created by
305 this act. The emergency rules shall remain in effect for 6
306 months after adoption and may be renewed during the pendency of
307 procedures to adopt rules addressing the subject of the
308 emergency rules.

309 Section 4. If any provision of this act or the application
310 thereof to any person or circumstance is held invalid, the
311 invalidity does not affect other provisions or applications of
312 the act which can be given effect without the invalid provision
313 or application, and to this end the provisions of this act are
314 severable.

315 Section 5. This act shall take effect upon becoming a law,
316 and applies retroactively to January 1, 2010. For the 2010
317 calendar year, an application for classification as working
318 waterfront must be filed on or before July 1, rather than on or
319 before March 1.

320
321 ===== T I T L E A M E N D M E N T =====

322 And the title is amended as follows:

323 Delete everything before the enacting clause
324 and insert:

325 A bill to be entitled
326 An act relating to working waterfront property;
327 creating s. 193.704, F.S.; providing definitions;
328 specifying properties that are eligible for
329 classification as working waterfront property;
330 requiring the assessment of working waterfront
331 property based on current use; specifying a



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332 methodology for determining assessed value; requiring
333 property appraisers to consider specified factors in
334 assessing certain property; providing for assessment
335 of a portion of property within a working waterfront
336 property which is not used as working waterfront
337 property; requiring an application for classification
338 of property as working waterfront property; specifying
339 application requirements; authorizing a property
340 appraiser to approve an application not filed by a
341 certain deadline due to extenuating circumstances;
342 providing for waiver of annual application
343 requirements; providing for loss of classification
344 upon a change of ownership or use; requiring property
345 owners to notify the property appraiser of changes in
346 use or ownership of property; imposing a penalty for
347 failure to notify the property appraiser of an event
348 resulting in the unlawful or improper classification
349 of property as working waterfront property; requiring
350 imposition of tax liens to recover penalties and
351 interest; requiring property appraisers to make a list
352 relating to applications to certify property as
353 working waterfront property; providing an appeal
354 process for applications that have been denied;
355 amending s. 195.073, F.S.; providing for the
356 classification of land as working waterfront property
357 on an assessment roll; providing emergency rulemaking
358 authority; providing for severability; providing for
359 retroactive application; specifying the date to apply
360 for a working waterfront classification for 2010;



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providing an effective date.