

By the Committee on Community Affairs; and Senators Dean, Gaetz, Lynn, Smith, Aronberg, Rich, and Storms

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

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30 appeal process for applications that have been denied;
31 amending s. 195.073, F.S.; providing for the
32 classification of land as working waterfront property
33 on an assessment roll; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

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

39 193.704 Working waterfront property; definitions;
40 classification and assessment; denial of classification and
41 appeal.-

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

45 (a) "Accessible to the public" means routinely available to
46 the public from sunrise to sunset, with or without charge, with
47 appropriate accommodations, including, but not limited to,
48 public parking or public boat ramps that are available for use
49 by the general public.

50 (b) "Commercial fishing facility" means docks, piers,
51 processing houses, or other facilities which support a
52 commercial fishing operation or an aquaculture operation
53 certified under chapter 597.

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

56 (d) "Drystack" means a vessel storage facility or building
57 in which storage spaces for vessels are available for use by the
58 public on a first-come, first-served basis. The term excludes

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59 storage that is purchased, received, or rented as a result of
60 homeownership or tenancy.

61 (e) "Land used predominantly for commercial fishing
62 purposes" means land used in good faith in a venture for-profit
63 commercial fishing operation for the taking or harvesting of
64 freshwater fish or saltwater products, as defined in s. 379.101,
65 for which a commercial license to take, harvest, or sell such
66 fish or products is required under chapter 379, or land used in
67 an aquaculture operation certified under chapter 597.

68 (f) "Marina" means a licensed commercial facility that
69 provides secured public moorings or drystacks for vessels on a
70 first-come, first-served basis. The term excludes mooring or
71 storage that is purchased, received, or rented as a result of
72 homeownership 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

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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 waters that provide
92 access to vessels for the transportation of people and goods in
93 commerce.

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

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

97 1. Land used predominantly for commercial fishing purposes.

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

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

101 4. Water-dependent marine manufacturing facilities.

102 5. Water-dependent commercial fishing facilities.

103 6. Water-dependent marine vessel construction and repair
104 facilities and their support facilities.

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

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

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

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117 taken into account when assessing the property.

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

121 a. The condition of the property.

122 b. The present market value of the property in its current
123 use.

124 c. The income produced by the property.

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

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

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

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

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

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

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

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

198 b. The property appraiser making such determination shall
199 record in the public records of the county in which the working
200 waterfront property is located a notice of tax lien against any
201 property owned by the working waterfront property owner, and
202 such property must be identified in the notice of tax lien. Such
203 property is subject to the payment of all taxes and penalties.

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204 Such lien, when filed, attaches to any property identified in
205 the notice of tax lien owned by the person or entity that
206 illegally or improperly received the classification. If such
207 person or entity no longer owns property in that county but owns
208 property in another county or counties in the state, the
209 property appraiser shall record in such other county or counties
210 a notice of tax lien identifying the property owned by the
211 working waterfront property owner in such county or counties
212 which shall become a lien against the identified property.

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

219 8. The property appraiser shall have available at his or
220 her office a list by ownership of all applications for
221 classification as working waterfront property received, showing
222 the acreage, the full valuation under s. 193.011, the value of
223 the land under the provisions of this subsection, and whether or
224 not the classification was granted.

225 (3) DENIAL OF CLASSIFICATION; APPEAL.—

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

232 (b) Any applicant whose application for classification as

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

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

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

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

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

273 195.073 Classification of property.—All items required by
274 law to be on the assessment rolls must receive a classification
275 based upon the use of the property. The department shall
276 promulgate uniform definitions for all classifications. The
277 department may designate other subclassifications of property.
278 No assessment roll may be approved by the department which does
279 not show proper classifications.

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

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

- 285 1. Single family.
- 286 2. Mobile homes.
- 287 3. Multifamily.
- 288 4. Condominiums.
- 289 5. Cooperatives.
- 290 6. Retirement homes.

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- 291 (b) Commercial and industrial.
292 (c) Agricultural.
293 (d) Nonagricultural acreage.
294 (e) High-water recharge.
295 (f) Historic property used for commercial or certain
296 nonprofit purposes.
297 (g) Exempt, wholly or partially.
298 (h) Centrally assessed.
299 (i) Leasehold interests.
300 (j) Time-share property.
301 (k) Land assessed under s. 193.501.
302 (l) Working waterfront property.
303 (m)~~(l)~~ Other.
304 Section 3. This act shall take effect July 1, 2010.