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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; providing for assessment
11 of a portion of property within a working waterfront
12 property which is not used as working waterfront
13 property; requiring an application for classification
14 of property as working waterfront property; specifying
15 application requirements; authorizing a property
16 appraiser to approve an application not filed by a
17 certain deadline due to extenuating circumstances;
18 providing for waiver of annual application
19 requirements; providing for loss of classification
20 upon a change of ownership or use; requiring property
21 owners to notify the property appraiser of changes in
22 use or ownership of property; imposing a penalty for
23 failure to notify the property appraiser of an event
24 resulting in the unlawful or improper classification
25 of property as working waterfront property; requiring
26 imposition of tax liens to recover penalties and
27 interest; requiring property appraisers to make a list
28 relating to applications to certify property as
29 working waterfront property; providing an appeal

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30 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; amending s. 380.5105, F.S.;
34 providing new program objectives for the Stan Mayfield
35 Working Waterfronts Program and the Florida Forever
36 Program which are to be considered in selecting
37 projects; providing emergency rulemaking authority;
38 providing for severability; providing for retroactive
39 application; specifying the date to apply for a
40 working waterfront classification for 2010; providing
41 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.-As used in this section, the term:

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

56 (b) "Commercial fishing facility" means docks, piers,
57 processing houses, or other facilities that support a commercial
58 fishing operation or an aquaculture operation certified under

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59 chapter 597.

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

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

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

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

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

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

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

87 (j) "Repair" includes retrofitting and maintenance of

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88 vessels.

89 (k) "Right of way" has the same meaning as provided in s.
90 334.03.

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

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

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

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

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

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

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

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

115 (a) The following waterfront properties are eligible for
116 classification as working waterfront property:

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117 1. Land used predominantly for commercial fishing purposes.

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

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

121 4. Water-dependent marine manufacturing facilities.

122 5. Water-dependent commercial fishing facilities.

123 6. Water-dependent marine vessel construction and repair
124 facilities and their support facilities.

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

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

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

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

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

142 2. If the conditions required for assessment under
143 subparagraph 1. are not satisfied, the property appraiser shall
144 value the property at its present cash value as if it were
145 required to remain in its current use into the foreseeable

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146 future.

147 3. In no event may the assessed value of the property
148 exceed just value.

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

154 (c)1. Property may not be classified as working waterfront
155 property unless an application for such classification is filed
156 with the property appraiser on or before March 1 of each year in
157 the county in which the property is located. Before approving
158 such classification, the property appraiser may require the
159 applicant to establish that the property is actually used as
160 required under this section. The property appraiser may require
161 the applicant to furnish the property appraiser such information
162 as may reasonably be required to establish that such property
163 was actually used for working waterfront purposes and to
164 establish the classified use value of the property, including
165 income and expense data. The owner or lessee of property
166 classified as working waterfront property in the prior year may
167 reapply on a short form provided by the department. The lessee
168 of property may make original application or reapply on a short
169 form if the lease, or an affidavit executed by the owner,
170 provides that the lessee is empowered to make application for
171 the working waterfront classification on behalf of the owner and
172 a copy of the lease or affidavit accompanies the application. An
173 applicant may withdraw an application on or before the 25th day
174 following the mailing of the notice of proposed property taxes

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175 pursuant to s. 200.069 in the year the application was filed.

176 2. Any property owner or lessee who fails to file an
177 application for classification as working waterfront property by
178 March 1 may file an application for classification with the
179 property appraiser on or before the 25th day following the
180 mailing of the notice of proposed property taxes pursuant to s.
181 200.069. Upon review of the application, if the applicant is
182 qualified to receive the classification and demonstrates
183 particular extenuating circumstances that warrant the
184 classification, the property appraiser may grant the
185 classification.

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

193 4. Notwithstanding subparagraph 2., a new application for
194 classification as working waterfront property must be filed with
195 the property appraiser whenever any property granted the
196 classification as working waterfront property is sold or
197 otherwise disposed of, ownership or the lessee changes in any
198 manner, the owner or the lessee ceases to use the property as
199 working waterfront property, or whenever the status of the owner
200 or the lessee changes so as to change the classified status of
201 the property.

202 5. The property appraiser shall remove from the
203 classification as working waterfront property any property for

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204 which the classified use has been abandoned or discontinued or
205 the property has been diverted to an unclassified use. Such
206 removed property shall be assessed at just value as provided in
207 s. 193.011.

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

225 b. The property appraiser making such determination shall
226 record in the public records of the county in which the working
227 waterfront property is located a notice of tax lien against any
228 property owned by the working waterfront property owner. Such
229 property must be identified in the notice of tax lien. Such
230 property is subject to the payment of all taxes and penalties.
231 Such lien, when filed, attaches to any property identified in
232 the notice of tax lien owned by the person or entity that

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233 illegally or improperly received the classification. If such
234 person or entity no longer owns property in that county but owns
235 property in another county or counties in the state, the
236 property appraiser shall record in such other county or counties
237 a notice of tax lien identifying the property owned by the
238 working waterfront property owner in such county or counties,
239 which shall become a lien against the identified property.

240 7. The property appraiser shall have available at his or
241 her office a list by ownership of all applications received for
242 classification of property as working waterfront property,
243 showing the acreage, the full valuation under s. 193.011, the
244 value of the land under the provisions of this subsection, and
245 whether the classification was granted.

246 (3) DENIAL OF CLASSIFICATION; APPEAL.-

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

254 (b) Any applicant whose application for classification as
255 working waterfront property is denied by the property appraiser
256 may appeal to the value adjustment board by filing a petition
257 requesting that the classification be granted. The petition may
258 be filed on or before the 25th day following the mailing of the
259 assessment notice by the property appraiser as required under s.
260 194.011(1). Notwithstanding the provisions of s. 194.013, the
261 petitioner shall pay a nonrefundable fee of \$15 upon filing the

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262 petition. Upon the value adjustment board's review of the
263 petition, if the petitioner is qualified to receive the
264 classification and demonstrates particular extenuating
265 circumstances that warrant granting the classification, the
266 value adjustment board may grant the petition and
267 classification.

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

271 (d)1. Property that has received a working waterfront
272 classification from the value adjustment board or a court of
273 competent jurisdiction under this subsection is entitled to
274 receive such classification in any subsequent year until such
275 use is changed, abandoned, or discontinued or the ownership
276 changes in any manner as provided in subparagraph (2) (c)4. The
277 property appraiser shall, no later than January 31 of each year,
278 provide notice to the property owner or lessee receiving a
279 classification under this subsection requiring the property
280 owner or a lessee qualified to make application to certify that
281 the ownership and the use of the property has not changed. The
282 department shall prescribe by rule the form of the notice to be
283 used by the property appraiser.

284 2. If a county has waived the requirement that an annual
285 application or short form be filed for classification of the
286 property under subsection (2), the county may, by majority vote
287 of its governing body, waive the notice and certification
288 requirements of this paragraph and shall provide the property
289 owner or lessee with the same notification as provided to
290 property owners granted a working waterfront classification by

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291 the property appraiser. Such waiver may be revoked by a majority
292 vote of the county governing body.

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

295 195.073 Classification of property.—All items required by
296 law to be on the assessment rolls must receive a classification
297 based upon the use of the property. The department shall
298 promulgate uniform definitions for all classifications. The
299 department may designate other subclassifications of property.
300 No assessment roll may be approved by the department which does
301 not show proper classifications.

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

304 (a) Residential, subclassified into categories, one
305 category for homestead property and one for nonhomestead
306 property:

307 1. Single family.

308 2. Mobile homes.

309 3. Multifamily.

310 4. Condominiums.

311 5. Cooperatives.

312 6. Retirement homes.

313 (b) Commercial and industrial.

314 (c) Agricultural.

315 (d) Nonagricultural acreage.

316 (e) High-water recharge.

317 (f) Historic property used for commercial or certain
318 nonprofit purposes.

319 (g) Exempt, wholly or partially.

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- 320 (h) Centrally assessed.
321 (i) Leasehold interests.
322 (j) Time-share property.
323 (k) Land assessed under s. 193.501.
324 (l) Working waterfront property.
325 (m)~~(l)~~ Other.

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

328 380.5105 The Stan Mayfield Working Waterfronts; Florida
329 Forever program.—

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

340 (a) That projects demonstrate a strong contribution to the
341 preservation of this state's commercial fishing, marine, or
342 aquaculture industries. ~~Within a municipality with a population~~
343 ~~less than 30,000;~~

344 (b) That projects are located in areas being converted or
345 threatened with conversion to uses that are incompatible with
346 working waterfront uses or are not marine or fishing uses.
347 ~~Within a municipality or area under intense growth and~~
348 ~~development pressures, as evidenced by a number of factors,~~

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349 ~~including a determination that the municipality's growth rate~~
350 ~~exceeds the average growth rate for the state;~~

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

356 (d) That projects have been used for commercial fishing,
357 marine, or aquaculture purposes or would create an opportunity
358 to be used for commercial fishing, marine, or aquaculture
359 purposes. ~~Adjacent to state-owned submerged lands designated as~~
360 ~~an aquatic preserve identified in s. 258.39; or~~

361 ~~(e) That provide a demonstrable benefit to the local~~
362 ~~economy.~~

363 Section 4. The Department of Revenue may adopt emergency
364 rules to administer s. 193.704, Florida Statutes, as created by
365 this act. The emergency rules shall remain in effect for 6
366 months after adoption and may be renewed during the pendency of
367 procedures to adopt rules addressing the subject of the
368 emergency rules.

369 Section 5. If any provision of this act or the application
370 thereof to any person or circumstance is held invalid, the
371 invalidity does not affect other provisions or applications of
372 the act which can be given effect without the invalid provision
373 or application, and to this end the provisions of this act are
374 severable.

375 Section 6. Except as otherwise expressly provided in this
376 act, this act shall take effect upon becoming a law, and applies
377 retroactively to January 1, 2010. For the 2010 calendar year, an

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378 application for classification of property as working waterfront
379 must be filed on or before July 1, rather than on or before
380 March 1.