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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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The Committee on Finance and Tax (Storms) 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) DEFINITIONS.—For purposes of granting a working waterfront property classification under this section for January 1, 2011, and thereafter, the term:



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13 (a) "Accessible to the public" means routinely available to
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 that provided in s. 379.2351.

24 (d) "Drystack" means a licensed commercial vessel storage
25 facility or building in which storage spaces for vessels are
26 available for use by the public on a first-come, first-served
27 basis. The term excludes storage that is purchased, received, or
28 rented as a result of 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 that
37 provides open-to-the-public dockage, moorings, or drystacks for
38 vessels on a first-come, first-served basis. The term excludes
39 dockage, 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



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42 manufactures vessels for use in waters that are navigable.

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

55 (l) "Water-dependent" means that the activities performed
56 in the facility can be conducted only on, in, over, or adjacent
57 to waters that are navigable, require direct access to water,
58 and involve the use of water as an integral part of such
59 activity.

60 (m) "Waterfront" means property that is on, over, or
61 abutting waters that are navigable.

62 (n) "Waters that are navigable" means water bodies that are
63 capable of supporting boating and that are used or may be used
64 in their ordinary condition as highways for commerce for which
65 trade or travel are or may be conducted in the customary modes
66 of trade or travel on water.

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

68 (a) The following waterfront properties are eligible for
69 classification as working waterfront property:

70 1. Land used predominantly for commercial fishing purposes.



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

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

74 4. Water-dependent marine manufacturing facilities.

75 5. Water-dependent commercial fishing facilities.

76 6. Water-dependent marine vessel construction and repair
77 facilities and their support facilities.

78 (b) Property classified as working waterfront property
79 under this section shall be assessed on the basis of current
80 use.

81 1. If the income approach to value is appropriate to the
82 property and if adequate local data on comparable rental rates,
83 expense rates, and vacancy rates are available to the property
84 appraiser, the assessed value shall be established using the
85 income approach to value, using an overall capitalization rate
86 based upon the debt coverage ratio formula, adjusted for the
87 effective tax rate. The overall capitalization rate shall be
88 calculated annually and shall be based on local data.

89 2. If the conditions required for assessment under
90 subparagraph 1. are not satisfied, the property appraiser shall
91 value the property at its present cash value as if it were
92 required to remain in its current use into the foreseeable
93 future.

94 3. In no event may the assessed value of the property
95 exceed just value.

96 4. If a parcel contains both uses eligible for assessment
97 under this section and uses that are not eligible for assessment
98 under this section, those portions of the property that are not
99 eligible for assessment under this section must be assessed



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100 separately as otherwise provided by this chapter.

101 (c)1. Property may not be classified as working waterfront
102 property unless an application for such classification is filed
103 with the property appraiser on or before March 1 of each year in
104 the county in which the property is located. Before approving
105 such classification, the property appraiser may require the
106 applicant to establish that the property is actually used as
107 required under this section. The property appraiser may require
108 the applicant to furnish the property appraiser such information
109 as may reasonably be required to establish that such property
110 was actually used for working waterfront purposes and to
111 establish the classified use value of the property, including
112 income and expense data. The owner or lessee of property
113 classified as working waterfront property in the prior year may
114 reapply on a short form provided by the department. The lessee
115 of property may make original application or reapply on a short
116 form if the lease, or an affidavit executed by the owner,
117 provides that the lessee is empowered to make application for
118 the working waterfront classification on behalf of the owner and
119 a copy of the lease or affidavit accompanies the application. An
120 applicant may withdraw an application on or before the 25th day
121 following the mailing of the notice of proposed property taxes
122 pursuant to s. 200.069 in the year the application was filed.

123 2. Any property owner or lessee who fails to file an
124 application for classification as working waterfront property by
125 March 1 may file an application for classification with the
126 property appraiser on or before the 25th day following the
127 mailing of the notice of proposed property taxes pursuant to s.
128 200.069. Upon review of the application, if the applicant is



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129 qualified to receive the classification and demonstrates
130 particular extenuating circumstances that warrant the
131 classification, the property appraiser may grant the
132 classification.

133 3. A county, at the request of the property appraiser and
134 by a majority vote of its governing body, may waive the
135 requirement that an annual application or short form be filed
136 with the property appraiser for renewal of the classification of
137 property within the county as working waterfront property. Such
138 waiver may be revoked by a majority of the county governing
139 body.

140 4. Notwithstanding subparagraph 2., a new application for
141 classification as working waterfront property must be filed with
142 the property appraiser whenever any property granted the
143 classification as working waterfront property is sold or
144 otherwise disposed of, whenever ownership or the lessee changes
145 in any manner, whenever the owner or the lessee ceases to use
146 the property as working waterfront property, or whenever the
147 status of the owner or the lessee changes so as to change the
148 classified status of the property.

149 5. The property appraiser shall remove from the
150 classification as working waterfront property any property for
151 which the classified use has been abandoned or discontinued or
152 the property has been diverted to an unclassified use. Such
153 removed property shall be assessed at just value as provided in
154 s. 193.011.

155 6.a. The owner of any property classified as working
156 waterfront property who is not required to file an annual
157 application under this section, and the lessee if the



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158 application was made by the lessee, shall notify the property
159 appraiser promptly whenever the use of the property or the
160 status or condition of the owner or lessee changes, so as to
161 change the classified status of the property. If any such
162 property owner or lessee fails to notify the property appraiser
163 and the property appraiser determines that for any year within
164 the prior 10 years the owner was not entitled to receive such
165 classification, the owner of the property is subject to taxes
166 otherwise due and owing as a result of such failure plus 15
167 percent interest per annum and a penalty of 50 percent of the
168 additional taxes owed. However, the penalty may be waived if the
169 owner or lessee can demonstrate that he or she took reasonable
170 care to notify the property appraiser of the change in use,
171 status, or condition of the property.

172 b. The property appraiser making such determination shall
173 record in the public records of the county in which the working
174 waterfront property is located a notice of tax lien against any
175 property owned by the working waterfront property owner, and
176 such property must be identified in the notice of tax lien. Such
177 property is subject to the payment of all taxes and penalties.
178 Such lien, when filed, attaches to any property identified in
179 the notice of tax lien owned by the person or entity that
180 illegally or improperly received the classification. If such
181 person or entity no longer owns property in that county but owns
182 property in another county or counties in the state, the
183 property appraiser shall record in such other county or counties
184 a notice of tax lien identifying the property owned by the
185 working waterfront property owner in such county or counties,
186 which shall become a lien against the identified property.



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187 7. The property appraiser shall have available at his or
188 her office a list by ownership of all applications received for
189 classification of property as working waterfront property,
190 showing the acreage, the just value under s. 193.011, the value
191 of the land under the provisions of this subsection, and whether
192 the classification was granted.

193 (3) DENIAL OF CLASSIFICATION; APPEAL.-

194 (a) The property appraiser shall notify an applicant for a
195 working waterfront classification in writing of a denial of an
196 application for such classification on or before July 1 of the
197 year for which the application was filed. The notification shall
198 advise the applicant of his or her right to appeal to the value
199 adjustment board and of the appeal filing deadline.

200 (b) Any applicant whose application for classification as
201 working waterfront property is denied by the property appraiser
202 may appeal to the value adjustment board by filing a petition
203 requesting that the classification be granted. The petition may
204 be filed on or before the 25th day following the mailing of the
205 assessment notice by the property appraiser as required under s.
206 194.011(1). Notwithstanding the provisions of s. 194.013, the
207 petitioner shall pay a nonrefundable fee of \$15 upon filing the
208 petition. Upon the value adjustment board's review of the
209 petition, if the petitioner is qualified to receive the
210 classification and demonstrates particular extenuating
211 circumstances that warrant granting the classification, the
212 value adjustment board may grant the petition and
213 classification.

214 (c) A denial of a petition for classification by the value
215 adjustment board may be appealed to a court of competent



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216 jurisdiction.

217 (d)1. Property that has received a working waterfront
218 classification from the value adjustment board or a court of
219 competent jurisdiction under this subsection is entitled to
220 receive such classification in any subsequent year until such
221 use is changed, abandoned, or discontinued or the ownership
222 changes in any manner as provided in subparagraph (2) (c)4. The
223 property appraiser shall, no later than January 31 of each year,
224 provide notice to the property owner or lessee receiving a
225 classification under this subsection requiring the property
226 owner or a lessee qualified to make application to certify that
227 the ownership and the use of the property has not changed. The
228 department shall prescribe by rule the form of the notice to be
229 used by the property appraiser.

230 2. If a county has waived the requirement that an annual
231 application or short form be filed for classification of the
232 property under subsection (2), the county may, by majority vote
233 of its governing body, waive the notice and certification
234 requirements of this paragraph and shall provide the property
235 owner or lessee with the same notification as provided to
236 property owners granted a working waterfront classification by
237 the property appraiser. Such waiver may be revoked by a majority
238 vote of the county governing body.

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

241 195.073 Classification of property.—All items required by
242 law to be on the assessment rolls must receive a classification
243 based upon the use of the property. The department shall
244 promulgate uniform definitions for all classifications. The



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245 department may designate other subclassifications of property.
246 No assessment roll may be approved by the department which does
247 not show proper classifications.

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

250 (a) Residential, subclassified into categories, one
251 category for homestead property and one for nonhomestead
252 property:

253 1. Single family.

254 2. Mobile homes.

255 3. Multifamily.

256 4. Condominiums.

257 5. Cooperatives.

258 6. Retirement homes.

259 (b) Commercial and industrial.

260 (c) Agricultural.

261 (d) Nonagricultural acreage.

262 (e) High-water recharge.

263 (f) Historic property used for commercial or certain
264 nonprofit purposes.

265 (g) Exempt, wholly or partially.

266 (h) Centrally assessed.

267 (i) Leasehold interests.

268 (j) Time-share property.

269 (k) Land assessed under s. 193.501.

270 (l) Working waterfront property.

271 (m) ~~(l)~~ Other.

272 Section 3. The Department of Revenue may adopt emergency
273 rules to administer s. 193.704, Florida Statutes, as created by



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274 this act. The emergency rules shall remain in effect for 6
275 months after adoption and may be renewed during the pendency of
276 procedures to adopt rules addressing the subject of the
277 emergency rules.

278 Section 4. This act shall take effect upon becoming a law,
279 and applies retroactively to January 1, 2010. For the 2010
280 calendar year, an application for classification as working
281 waterfront must be filed on or before July 1, rather than on or
282 before March 1.

283
284 ===== T I T L E A M E N D M E N T =====

285 And the title is amended as follows:

286 Delete everything before the enacting clause
287 and insert:

288 A bill to be entitled
289 An act relating to working waterfront property;
290 creating s. 193.704, F.S.; providing definitions;
291 specifying properties that are eligible for
292 classification as working waterfront property;
293 requiring the assessment of working waterfront
294 property based on current use; specifying a
295 methodology for determining assessed value; requiring
296 property appraisers to consider specified factors in
297 assessing certain property; providing for assessment
298 of a portion of property within a working waterfront
299 property which is not used as working waterfront
300 property; requiring an application for classification
301 of property as working waterfront property; specifying
302 application requirements; authorizing a property



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303 appraiser to approve an application not filed by a
304 certain deadline due to extenuating circumstances;
305 providing for waiver of annual application
306 requirements; providing for loss of classification
307 upon a change of ownership or use; requiring property
308 owners to notify the property appraiser of changes in
309 use or ownership of property; imposing a penalty for
310 failure to notify the property appraiser of an event
311 resulting in the unlawful or improper classification
312 of property as working waterfront property; requiring
313 imposition of tax liens to recover penalties and
314 interest; requiring property appraisers to make a list
315 relating to applications to certify property as
316 working waterfront property; providing an appeal
317 process for applications that have been denied;
318 amending s. 195.073, F.S.; providing for the
319 classification of land as working waterfront property
320 on an assessment roll; providing emergency rulemaking
321 authority; providing for retroactive application;
322 providing an alternate application date for 2010;
323 providing an effective date.