

1 A bill to be entitled
 2 An act relating to ad valorem taxation of working
 3 waterfront property; creating s. 193.704, F.S.; providing
 4 definitions; providing for classification and assessment
 5 of certain properties based upon current use; providing
 6 requirements for an assessment methodology; providing
 7 classification application requirements, limitations, and
 8 procedures; providing for continuing classification of
 9 such property under certain circumstances; providing
 10 limitations; providing for loss of classification under
 11 certain circumstances; providing penalties; providing
 12 requirements for property appraisers; providing for denial
 13 of classification applications; providing procedures and
 14 requirements for appealing application denials; providing
 15 an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 193.704, Florida Statutes, is created
 20 to read:

21 193.704 Working waterfront property; definitions;
 22 classification and assessment; denial of classification and
 23 appeal.--

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

27 (a) "Accessible to the public" means routinely open to the
 28 public from sunrise to sunset, with or without charge, with

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29 appropriate accommodations, including, but not limited to,
30 public parking or public boat ramps that are available for use
31 by the general public.

32 (b) "Commercial fishing operation" has the same meaning as
33 that provided in s. 379.2351.

34 (c) "Drystack" means a vessel storage facility or building
35 in which storage spaces for vessels are available for use by the
36 public on a first-come, first-served basis with no automatic
37 renewal rights or conditions. The term excludes drystacks in
38 which vessel storage is limited to persons purchasing,
39 receiving, or renting a storage space as a condition of
40 homeownership or tenancy.

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

47 (e) "Marina" means a licensed commercial facility that
48 provides secured public moorings or drystacks for vessels on a
49 first-come, first-served basis and with no automatic renewal
50 rights or conditions. The term excludes marinas at which mooring
51 or storage of a vessel is limited to persons purchasing,
52 receiving, or renting a mooring slip or storage space as a
53 condition of homeownership or tenancy.

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

56 (g) "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 dockyards. As used in this section, the term
 60 "repair" includes retrofitting and maintenance of vessels.

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

63 (i) "Support facility" means a facility that typically is
 64 colocated with marine vessel construction and repair facilities,
 65 including, but not limited to, shops, equipment, and salvage
 66 facilities.

67 (j) "Water-dependent" means that the operations of a
 68 facility require direct access to water.

69 (k) "Waterfront" means property that is on, over, or
 70 abutting waters that are navigable.

71 (l) "Waters that are navigable" means the waters of the
 72 state that are capable of supporting boating and that are used
 73 or may be used in their ordinary condition as highways for
 74 commerce for which trade or travel are or may be conducted in
 75 the customary modes of trade or travel on water.

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

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

79 1. Land used predominantly for commercial fishing
 80 purposes.

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

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

84 4. Water-dependent marine manufacturing facilities.

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85 5. Water-dependent commercial fishing facilities.

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

88 (b) Property classified as working waterfront property
89 under this section shall be assessed on the basis of current
90 use. Assessed value must be calculated using the income approach
91 to value as described in The Appraisal of Real Estate,
92 Thirteenth Edition, published by the Appraisal Institute, and
93 using a capitalization rate based upon a debt coverage ratio
94 formula, whereby the capitalization rate equals the debt
95 coverage ratio times the mortgage capitalization rate times the
96 loan to value ratio for comparable properties. The
97 capitalization rate must be calculated and updated annually. In
98 assessing working waterfront property on an income approach to
99 value basis, property appraisers shall use data from lenders
100 regarding industrywide loan interest rates, loan to value
101 ratios, amortization terms, payment periods, debt coverage ratio
102 requirements, market rental rates, market expense rates, and
103 market vacancy rates. Such data shall be county specific unless
104 insufficient data is available, in which case the property
105 appraisers shall use data from surrounding counties.

106 (c)1. Property may not be classified as working waterfront
107 property unless an application for such classification is filed
108 with the property appraiser on or before March 1 of each year in
109 the county in which the property is located. Before approving
110 such classification, the property appraiser may require the
111 property owner to establish that the property is actually used
112 as required under this section. The owner of property classified

113 as working waterfront property in the prior year may reapply on
114 a short form provided by the Department of Revenue.

115 2. Failure by a property owner to apply for a
116 classification as working waterfront property by March 1 shall
117 constitute a waiver for 1 year of the privilege granted in this
118 section. However, a property owner who is qualified to receive a
119 working waterfront classification but who fails to timely apply
120 for classification may file an application for classification
121 with the property appraiser. Upon review of the application, if
122 the person is qualified to receive the classification and
123 demonstrates particular extenuating circumstances that warrant
124 the classification, the property appraiser may grant the
125 classification.

126 3. A county, at the request of the property appraiser and
127 by a majority vote of its governing body, may waive the
128 requirement that an annual application or short form be filed
129 with the property appraiser for renewal of the classification of
130 property within the county as working waterfront property. Such
131 waiver may be revoked by a majority of the county governing
132 body.

133 4. Notwithstanding subparagraph 2., a new application for
134 classification as working waterfront property must be filed with
135 the property appraiser whenever any property granted the
136 classification as working waterfront property is sold or
137 otherwise disposed of, whenever ownership changes in any manner,
138 whenever the owner ceases to use the property as working
139 waterfront property, or whenever the status of the owner changes
140 so as to change the classified status of the property.

141 5. The property appraiser shall remove from the
142 classification as working waterfront property any property for
143 which the classified use has been abandoned or discontinued, or
144 the property has been diverted to an unclassified use. Such
145 removed property shall be assessed at just value as provided in
146 s. 193.011.

147 6.a. The owner of any property classified as working
148 waterfront property who is not required to file an annual
149 application under this section shall notify the property
150 appraiser promptly whenever the use of the property or the
151 status or condition of the owner changes, so as to change the
152 classified status of the property. If any such property owner
153 fails to notify the property appraiser and the property
154 appraiser determines that for any year within the prior 10 years
155 the owner was not entitled to receive such classification, the
156 owner of the property is subject to taxes otherwise due and
157 owing as a result of such failure plus 15 percent interest per
158 annum and a penalty of 50 percent of the additional taxes owed.

159 b. The property appraiser making such determination shall
160 record in the public records of the county in which the working
161 waterfront property is located a notice of tax lien against any
162 property owned by the working waterfront property owner, and
163 such property must be identified in the notice of tax lien. Such
164 property is subject to the payment of all taxes and penalties.
165 Such lien, when filed, attaches to any property identified in
166 the notice of tax lien owned by the person or entity that
167 illegally or improperly received the classification. If such
168 person or entity no longer owns property in that county but owns

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169 property in another county or counties in the state, the
170 property appraiser shall record in such other county or counties
171 a notice of tax lien identifying the property owned by the
172 working waterfront property owner in such county or counties
173 which shall become a lien against the identified property.

174 7. When property receiving a working waterfront
175 classification contains under the same ownership a residence, or
176 a marina, drystack, or other facility not eligible to be
177 classified as a working waterfront property under this
178 subsection, the portion of the property consisting of the
179 residence, marina, drystack, or other facility and the
180 property's curtilage must be assessed separately as provided in
181 s. 193.011.

182 8. The property appraiser shall have available at his or
183 her office a list by ownership of all applications for
184 classification as working waterfront property received, showing
185 the acreage, the full valuation under s. 193.011, the value of
186 the land under the provisions of this subsection, and whether or
187 not the classification was granted.

188 (3) DENIAL OF CLASSIFICATION; APPEAL.--

189 (a) The property appraiser shall notify a property owner
190 applying for a working waterfront classification in writing of a
191 denial of an application for such classification on or before
192 July 1 of the year for which the application was filed. The
193 notification shall advise the property owner of his or her right
194 to appeal to the value adjustment board and of the appeal filing
195 deadline.

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

210 (c) A denial of a petition for classification by the value
211 adjustment board may be appealed to a court of competent
212 jurisdiction.

213 (d)1. Property that has received a working waterfront
214 classification from the value adjustment board or a court of
215 competent jurisdiction under this subsection is entitled to
216 receive such classification in any subsequent year until such
217 use is abandoned or discontinued, or the ownership changes in
218 any manner as provided in subparagraph (2)(c)4. The property
219 appraiser shall, no later than January 31 of each year, provide
220 notice to the property owner receiving a classification under
221 this subsection requiring the property owner to certify that the
222 ownership and the use of the property has not changed. The

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223 department shall prescribe by rule the form of the notice to be
224 used by the property appraiser.

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

234 Section 2. This act shall take effect October 1, 2009.