

1                                   A bill to be entitled  
2       An act relating to working waterfront property; creating  
3       s. 193.704, F.S.; defining terms; specifying property that  
4       is eligible for classification as working waterfront  
5       property; requiring the assessment of working waterfront  
6       property based on current use; requiring an application  
7       for classification of property as working waterfront  
8       property; authorizing a property appraiser to approve an  
9       application that is not filed by a certain deadline due to  
10      extenuating circumstances; providing for the waiver of  
11      annual application requirements; providing for the loss of  
12      classification upon a change of ownership or use;  
13      requiring that property owners notify the property  
14      appraiser of changes in use or ownership of property;  
15      imposing a penalty on a property owner who fails to notify  
16      the property appraiser of an event resulting in the  
17      unlawful or improper classification of property as working  
18      waterfront property; requiring the imposition of tax liens  
19      to recover penalties and interest; providing for the  
20      assessment of a portion of property within a working  
21      waterfront property which is not used as working  
22      waterfront property; requiring that a property appraiser  
23      make a list relating to applications to certify property  
24      as working waterfront property; providing an appeal  
25      process for an application that has been denied; amending  
26      s. 195.073, F.S.; providing for the classification of land  
27      as working waterfront property on an assessment roll;  
28      providing a severability clause; providing emergency

29 rulemaking authority; providing for retroactive  
 30 application; providing an alternate application date for  
 31 2010; providing an effective date.

32

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

34

35 Section 1. Section 193.704, Florida Statutes, is created  
 36 to read:

37 193.704 Working waterfront property; definitions;  
 38 classification and assessment; denial of classification and  
 39 appeal.-

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

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

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

52 (c) "Commercial fishing operation" has the same meaning as  
 53 provided in s. 379.2351.

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

57 storage that is purchased, received, or rented as a result of  
 58 homeownership or tenancy.

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

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

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

73 (h) "Marine vessel construction and repair facility" means  
 74 a facility that constructs and repairs vessels that travel over  
 75 waters that are navigable, including, but not limited to,  
 76 shipyards and boatyards.

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

79 (j) "Repair" includes retrofitting and maintenance of  
 80 vessels.

81 (k) "Right-of-way" has the same meaning as provided in s.  
 82 334.03.

83 (l) "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 (m) "Water-dependent" means that the activity performed in  
 88 the facility can be conducted only on, in, over, or adjacent to  
 89 waters that are navigable and requires direct access to water  
 90 and involves the use of water as an integral part of such  
 91 activity.

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

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

98 2. The properties on both sides of the right-of-way are  
 99 part of the same business enterprise; and

100 3. The property that is separated from the water by the  
 101 right-of-way has direct access to the water by crossing the  
 102 right-of-way.

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

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

107 (a) The following waterfront properties are eligible for  
 108 classification as working waterfront property:

109 1. Land used predominantly for commercial fishing  
 110 purposes.

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

- 113       3. Marinas and drystacks that are open to the public.
- 114       4. Water-dependent marine manufacturing facilities.
- 115       5. Water-dependent commercial fishing facilities.
- 116       6. Water-dependent marine vessel construction and repair  
 117 facilities and their support facilities.
- 118       7. Water-dependent facilities located in a county defined  
 119 in s. 125.011(1):
- 120       a. used for the commercial transportation of goods and  
 121 people to and from foreign ports, or
- 122       b. used to provide towing, storage and salvage in support  
 123 of the facilities described in sub-subparagraph a.
- 124       (b) Property classified as working waterfront property under  
 125 this section shall be assessed on the basis of current use.
- 126       1. If the income approach to valuation is appropriate to  
 127 the property and if adequate local data on market rental rates,  
 128 expense rates, and vacancy rates are available to the property  
 129 appraiser, the assessed value shall be calculated using the  
 130 income approach to value, using a capitalization rate based upon  
 131 the debt coverage ratio formula, adjusted for the effective tax  
 132 rate and the percentage of equity multiplied by the equity yield  
 133 rate. The capitalization rate shall be calculated and updated  
 134 annually and shall be based on local data.
- 135       2. If the conditions required for assessment under  
 136 subparagraph 1. are not satisfied, the property appraiser shall  
 137 value the property at its present cash value as if it were  
 138 required to remain in its current use into the foreseeable  
 139 future.
- 140       3. In no event shall the assessed value of the property

141 exceed just value.

142 4. When a parcel contains both uses eligible for  
 143 assessment under this section and uses that are not eligible for  
 144 assessment under this section, those portions of the property  
 145 that are not eligible for assessment under this section must be  
 146 assessed separately as otherwise provided by this chapter.

147 (c)1. Property may not be classified as working waterfront  
 148 property unless an application for such classification is filed  
 149 with the property appraiser on or before March 1 of each year in  
 150 the county in which the property is located. Before approving  
 151 such classification, the property appraiser may require the  
 152 applicant to establish that the property is actually used as  
 153 required under this section. The property appraiser may require  
 154 the applicant to furnish the property appraiser such information  
 155 as may reasonably be required to establish that such property  
 156 was actually used for working waterfront purposes, and to  
 157 establish the classified use value of the property, including  
 158 income and expense data. The owner or lessee of the property  
 159 classified as working waterfront property in the prior year may  
 160 reapply on a short form provided by the Department of Revenue.  
 161 The lessee of property may make original application or reapply  
 162 on a short form if the lease, or an affidavit executed by the  
 163 owner, provides that the lessee is empowered to make application  
 164 for the working waterfront classification on behalf of the owner  
 165 and a copy of the lease or affidavit accompanies the  
 166 application. An applicant may withdraw an application on or  
 167 before the 25th day following the mailing of the notice of  
 168 proposed property taxes pursuant to s. 200.069 in the year the

169 application was filed.

170 2. Failure of a property owner or lessee to apply for a  
 171 classification as working waterfront property by March 1  
 172 constitutes a waiver for 1 year of the privilege granted in this  
 173 section. However, a person who is qualified to receive a working  
 174 waterfront classification but who fails to timely apply for  
 175 classification may file an application for classification with  
 176 the property appraiser on or before the 25th day following the  
 177 mailing of proposed property taxes pursuant to s. 200.069. Upon  
 178 review of the application, if the applicant is qualified to  
 179 receive the classification and demonstrates particular  
 180 extenuating circumstances that warrant the classification, the  
 181 property appraiser may grant the classification.

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

189 4. Notwithstanding subparagraph 3., a new application for  
 190 classification as working waterfront property must be filed with  
 191 the property appraiser whenever any property granted the  
 192 classification as working waterfront property is sold or  
 193 otherwise disposed of, whenever ownership or the lessee changes  
 194 in any manner, whenever the owner or the lessee ceases to use  
 195 the property as working waterfront property, or whenever the  
 196 status of the owner or the lessee changes so as to change the

197 classified status of the property.

198 5. The property appraiser shall remove from the  
 199 classification as working waterfront property any property for  
 200 which the classified use has been abandoned or discontinued, or  
 201 if the property has been diverted to an unclassified use. Such  
 202 removed property shall be assessed at just value as provided in  
 203 s. 193.011.

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

221 b. The property appraiser making such determination shall  
 222 record in the public records of the county in which the working  
 223 waterfront property is located a notice of tax lien against any  
 224 property owned by the working waterfront property owner, and



225 such property must be identified in the notice of tax lien. Such  
 226 property is subject to the payment of all taxes and penalties.  
 227 Such lien, when filed, attaches to any property identified in  
 228 the notice of tax lien owned by the person or entity that  
 229 illegally or improperly received the classification. If such  
 230 person or entity no longer owns property in that county but owns  
 231 property in another county or counties in the state, the  
 232 property appraiser shall record in such other county or counties  
 233 a notice of tax lien identifying the property owned by the  
 234 working waterfront property owner in such county or counties  
 235 which shall become a lien against the identified property.

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

242 (3) DENIAL OF CLASSIFICATION; APPEAL.—

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

250 (b) Any applicant whose application for classification as  
 251 working waterfront property is denied by the property appraiser  
 252 may appeal to the value adjustment board by filing a petition

253 requesting that the classification be granted. The petition may  
 254 be filed on or before the 25th day following the mailing of the  
 255 assessment notice by the property appraiser as required under s.  
 256 194.011(1). The petitioner shall pay a nonrefundable fee of \$15  
 257 upon filing the petition. Upon the value adjustment board's  
 258 review of the petition, if the petitioner is qualified to  
 259 receive the classification, the value adjustment board may grant  
 260 the petition and classification.

261 (c) A denial of a petition for classification by the value  
 262 adjustment board may be appealed to a court of competent  
 263 jurisdiction.

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

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

279 195.073 Classification of property.—All items required by  
 280 law to be on the assessment rolls must receive a classification

281 based upon the use of the property. The department shall  
 282 promulgate uniform definitions for all classifications. The  
 283 department may designate other subclassifications of property.  
 284 No assessment roll may be approved by the department which does  
 285 not show proper classifications.

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

288 (a) Residential, subclassified into categories, one  
 289 category for homestead property and one for nonhomestead  
 290 property:

- 291 1. Single family.
- 292 2. Mobile homes.
- 293 3. Multifamily.
- 294 4. Condominiums.
- 295 5. Cooperatives.
- 296 6. Retirement homes.
- 297 (b) Commercial and industrial.
- 298 (c) Agricultural.
- 299 (d) Nonagricultural acreage.
- 300 (e) High-water recharge.
- 301 (f) Historic property used for commercial or certain  
 302 nonprofit purposes.
- 303 (g) Exempt, wholly or partially.
- 304 (h) Centrally assessed.
- 305 (i) Leasehold interests.
- 306 (j) Time-share property.
- 307 (k) Land assessed under s. 193.501.
- 308 (l) Working waterfront property.

309 (m)~~(1)~~ Other.

310 Section 3. If any provision of this act or the application  
 311 thereof to any person or circumstance is held invalid, the  
 312 invalidity does not affect other provisions or applications of  
 313 the act which can be given effect without the invalid provision  
 314 or application, and to this end the provisions of this act are  
 315 severable.

316 Section 4. The Department of Revenue may adopt emergency  
 317 rules to administer s. 193.704, Florida Statutes, as created by  
 318 this act. The emergency rules shall remain in effect for 6  
 319 months after adoption and may be renewed during the pendency of  
 320 procedures to adopt rules addressing the subject of the  
 321 emergency rules.

322 Section 5. This act shall take effect upon becoming a law,  
 323 and applies retroactively to January 1, 2010. For the 2010  
 324 calendar year, an application for classification as working  
 325 waterfront must be filed on or before July 1 instead of on or  
 326 before March 1.