



Finance & Tax Council

**Wednesday, February 3, 2010
1:00 PM
404 HOB**

**Larry Cretul
Speaker**

**Ellyn Setnor Bogdanoff
Chair**

Council Meeting Notice
HOUSE OF REPRESENTATIVES

Finance & Tax Council

Start Date and Time: Wednesday, February 03, 2010 01:00 pm

End Date and Time: Wednesday, February 03, 2010 04:00 pm

Location: 404 HOB

Duration: 3.00 hrs

Workshop on the following:

Legislation Relating to the Ad Valorem Taxation of Working Waterfronts

NOTICE FINALIZED on 01/27/2010 15:16 by BAI

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:

SPONSOR(S):

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	_____	_____	Diez-Arguelles	Langston
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

This bill implements Article VII, section 4, and Article XII, section 30 of the Florida Constitution, and creates s. 193.704, F.S., providing guidelines to be used by property appraisers in determining the assessment of property classified as working waterfront property.

The bill provides definitions and eligibility criteria for property that may be classified as “working waterfront” for purposes of an exception from just valuation assessments. Working waterfront properties consist of: land used predominantly for commercial fishing, land that is accessible to the public and used for vessel launches into waters that are navigable, marinas and drystacks that are open to the public, water-dependent marine manufacturing facilities, water-dependent commercial fishing facilities, and water-dependent marine vessel construction and repair facilities and their support facilities.

The bill provides that property classified as working waterfront must be assessed on the basis of current use. The property appraiser is directed to consider only the following use factors: the condition of the property, the present market value of the property in its current use for the foreseeable future, and the income produced by the property. In no event will the assessed value of the property exceed just value.

The bill provides application procedures and provides penalties for failure to report a change in the use of property to other than as a working waterfront property. The portion of any working waterfront property that is not entitled to be classified as working waterfront must be assessed separately as provided under s. 193.011, F.S.

The property appraiser is required to retain at his or her office a list by ownership of all applications for classification as working waterfront property the office has received, showing the acreage of the property; the full valuation under s. 193.011, F.S.; the value of the land under the provisions of this act; and whether or not the classification was granted.

In 2009, the Revenue Estimating Conference estimated that the provisions of a similar bill (CS/HB 1468) would reduce local government revenues by \$46.9 million in FY 2010-11, assuming current millage rates.

The bill has an effective date of “upon becoming law,” and applies retroactively to January 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: working waterfront property.doc

DATE: 1/20/2010

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Just Valuation of Real Property

Article VII, section 4 of the Florida Constitution generally requires all property to be assessed at just value for the purposes of ad valorem taxation. Just value has been interpreted to mean fair market value.¹ Property appraisers determine the just value or market value of real property through the consideration of eight factors in s. 193.011, F.S. This section states that, in arriving at just valuation as required under Article VII, section 4 of the State Constitution, the property appraiser shall take into consideration the following factors:

- (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;
- (3) The location of said property;
- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;
- (6) The condition of said property;
- (7) The income from said property; and

¹ *Walter v. Schuler*, 176 So.2d 4 (Fla. 1965)

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.²

Exceptions to Just Valuation

Article VII, section 4 of the Florida Constitution also authorizes exceptions from the requirement that property be assessed at just value. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use.³ Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.⁴ In addition, the "Save Our Homes" assessment limitation to the Florida Constitution provides a limitation on the amount by which assessments for homesteads may be changed on January 1 of each year.⁵ Annual increases in assessments of certain nonhomestead properties are also limited.⁶ Land used for conservation purposes must be assessed solely on the basis of character or use.⁷ Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character and use.⁸ Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.⁹

Constitutional Amendment on Ad Valorem Taxation for Working Waterfront Property

The Florida Taxation and Budget Reform Commission (TBRC), in accordance with Article XI, section 6 of the Florida Constitution, convened, held workshops and public meetings, and ultimately proposed several constitutional amendments for the 2008 ballot for approval or rejection by Florida voters. One of the TBRC's amendments approved by the voting public was Amendment 6: *Assessment of Working Waterfront Property Based upon Current Use*, which added a new subsection to Article VII, section 4, and created Article XII, section 30, of the Florida Constitution.

² Section 193.011, F.S.

³ Art. VII, section 4(a) of the State Constitution.

⁴ Art. VII, section 4(c) of the State Constitution.

⁵ Art. VII, section 4(d) of the State Constitution provides that changes in the prior year assessment may not exceed the lesser of three percent or the percent change in the Consumer Price Index.

⁶ Art. VII, section 4(g) and (h) of the State Constitution provides that annual assessment changes may not exceed 10% of the prior year's assessment.

⁷ Art. VII, section 4(b) of the State Constitution.

⁸ Art. VII, section 4(e) of the State Constitution.

⁹ Art. VII, section 4(f) of the State Constitution.

The new subsection added to Article VII, section 4, of the Florida Constitution reads as follows:

- (j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:
- a. Land used predominantly for commercial fishing purposes.
 - b. Land that is accessible to the public and used for vessel launches into waters that are navigable.
 - c. Marinas and drystacks that are open to the public.
 - d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.
- (2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

Article XII, section 30 of the Florida Constitution provides that the assessment of working waterfront property based on current use shall first apply to assessments for tax years beginning January 1, 2010.

Effect of Proposed Changes

This bill implements Article VII, section 4, and Article XII, section 30 of the Florida Constitution, and creates s. 193.704, F.S., providing guidelines to be used by property appraisers in determining the assessment of property classified as working waterfront property.

The bill provides definitions for the following terms: "accessible to the public," "commercial fishing operation," "drystack," "land used predominantly for commercial fishing purposes," "marina," "marine manufacturing facility," "marine vessel construction and repair facility" "open to the public," "support facility," "water-dependent," "waterfront," and "waters that are navigable."

Pursuant to the bill, the following waterfront property is eligible for classification as working waterfront property:

- Land used predominantly for commercial fishing purposes.
- Land that is accessible to the public and used for vessel launches into waters that are navigable.
- Marinas and drystacks that are open to the public.
- Water-dependent marine manufacturing facilities.
- Water-dependent commercial fishing facilities.
- Water-dependent marine vessel construction and repair facilities and their support activities.

Property classified as working waterfront must be assessed on the basis of current use. The property appraiser is directed to consider only the following use factors: the condition of the property, the present market value of the property in its current use for the foreseeable future, and the income produced by the property. In no event will the assessed value of the property exceed just value.

When a parcel of property contains both uses eligible for assessment as working waterfront property and uses that are not eligible for such assessment, those portions of the property that are not eligible must be assessed separately at just value.

A property owner or lessee must file an application for the classification with the property appraiser on or before March 1 of each year in the county where the property is located. A short form provided by the Florida Department of Revenue may be used for classification renewals. A property owner that misses the March 1 deadline waives the classification privilege. However, the property appraiser may grant the classification upon review of a late-filed application for property that is found to be qualified to receive the classification.

A property appraiser may request a county governing body grant a waiver of the annual renewal application requirement for property classified as working waterfront within the county. A majority of the county governing body may grant and revoke such a waiver.

Whenever ownership of property that is classified as working waterfront changes, the property ceases to be used as working waterfront, or the status of the owner or lessee changes so as to change the status of the property, a new application for classification as working waterfront must be filed with the property appraiser.

A property appraiser is required to remove the working waterfront classification from a property if the classified use has been abandoned or discontinued, or the use has shifted to an unclassified use. Such property must be assessed as provided in s. 193.011, F.S.

An owner of property classified as working waterfront that is not required to file an annual application must promptly notify the property appraiser whenever the use of the property or the status or condition of the owner changes so as to necessitate a change of the classification status of the property. In the event a property owner fails to provide notice, the property appraiser is authorized to examine the use of a subject property for the prior ten years to determine if the owner was entitled to receive the benefits of the classification. For any year the property appraiser determines that the owner was not entitled to the classification, the owner is subject to taxes due (based on a just value assessment) plus 15 percent interest per annum and a penalty of 50 percent of the additional taxes owed. A property appraiser making a determination that an owner is not entitled to the classification shall record a tax lien in the county where the property is located against any property owned by the working waterfront owner. When filed, the lien attaches to any property identified in the notice of tax lien owned by the person or entity that improperly received the classification. If the person against whom the notice of tax lien is filed does not own property in the county, the property appraiser is required to record a notice of tax lien on any property the person owns in any other county or counties in the state.

The property appraiser is required to retain at his or her office a list by ownership of all applications for classification as working waterfront property the office has received, showing:

- The acreage of the property;
- The full valuation under s. 193.011, F.S.;
- The value of the land under the provisions of this act; and
- Whether or not the classification was granted.

A property appraiser is required to notify a property owner of the denial of the classification application in writing on or before July 1 of the year for which the application was filed. The written notification shall advise the applicant of his or her right to appeal to the VAB and include the appeal filing deadline.

A property owner whose application for classification is denied by the property appraiser may appeal to the VAB by filing a petition on or before the 25th day following the mailing of the assessment notice by the property appraiser, and paying a \$15 filing fee. If the petitioner is entitled to receive the classification, the VAB may grant the petition and classification. A denial of the petition by the VAB may be appealed to a circuit court. Property that has received a classification from the VAB or the circuit court is entitled to receive the classification in any subsequent year until such use is abandoned or the ownership changes in any manner, as provided herein. The property appraiser is required to notify the property owner no later than January 31 or each year to certify that the ownership and the use of the property have not changed. By rule, the Department of Revenue shall prescribe the form of the notice to be used by the property appraiser. Notice and certification may also be waived by a majority vote of the county governing body.

B. SECTION DIRECTORY:

Section 1 creates s. 193.704, F.S.

Section 2 amends s. 195.073, F.S., to add working waterfront property to the list of classifications used for tax assessment purposes.

Section 3 provides an effective date of upon becoming law and applies retroactively to January 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

In 2009, the Revenue Estimating Conference estimated that the provisions of a similar bill (CS/SB 1468) would reduce local government revenues by \$46.9 million in FY 2010-11, assuming current millage rates. The Revenue Estimating Conference has not updated the estimate, but is expected to do so.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Part D, FISCAL COMMENTS.

D. FISCAL COMMENTS:

According to the TBRC's Staff Analysis and Economic Impact Statement for Real Property Assessments for Working Waterfront Parcels, dated March 26, 2008, the effect of the amendment may result in the reduction of the property taxes on working waterfront properties, and thereby reduce pressure on these properties to convert to highest and best use.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill implements a mandatory constitutional provision; therefore, it is not a mandate.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is required to prescribe, by rule, the form of the notice to be used by the property appraiser.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

BILL

ORIGINAL

YEAR

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;

BILL

ORIGINAL

YEAR

28 providing for retroactive application; providing an
29 effective date.

30

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

32

33 Section 1. Section 193.704, Florida Statutes, is created
34 to read:

35 193.704 Working waterfront property; definitions;
36 classification and assessment; denial of classification and
37 appeal.-

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

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

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

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

52 (d) "Drystack" means a vessel storage facility or building
53 in which storage spaces for vessels are available for use by the
54 public on a first-come, first-served basis, with no automatic
55 renewal rights or conditions. The term excludes storage that is

BILL ORIGINAL YEAR

56 purchased, received, or rented as a result of homeownership or
 57 tenancy.

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

65 (f) "Marina" means a licensed commercial facility that
 66 provides secured public moorings or drystacks for vessels on a
 67 first-come, first-served basis, with no automatic renewal rights
 68 or conditions. The term excludes mooring or storage that is
 69 purchased, received, or rented as a result of homeownership or
 70 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) "Support facility" means a facility that typically is
 82 colocated with marine vessel construction and repair facilities,
 83 including, but not limited to, shops, equipment, and salvage

BILL ORIGINAL YEAR

84 facilities.
 85 (1) "Water-dependent" means an activity that can be
 86 conducted only on, in, over, or adjacent to waters that are
 87 navigable and that requires direct access to water and involves
 88 the use of water as an integral part of such activity.
 89 (m) "Waterfront" means property that is on, over, or
 90 abutting waters that are navigable.
 91 (n) "Waters that are navigable" means any body of water
 92 that is subject to the ebb and flow of the tide, connects with
 93 continuous interstate waterway, has navigable capacity, and is
 94 actually navigable.
 95 (2) CLASSIFICATION AND ASSESSMENT; LOSS; PENALTY.-
 96 (a) The following waterfront properties are eligible for
 97 classification as working waterfront property:
 98 1. Land used predominantly for commercial fishing
 99 purposes.
 100 2. Land that is accessible to the public and used for
 101 vessel launches into waters that are navigable.
 102 3. Marinas and drystacks that are open to the public.
 103 4. Water-dependent marine manufacturing facilities.
 104 5. Water-dependent commercial fishing facilities.
 105 6. Water-dependent marine vessel construction and repair
 106 facilities and their support facilities.
 107 (b)1. Property classified as working waterfront property
 108 under this section shall be assessed on the basis of the
 109 property's current use. The property appraiser shall consider
 110 only the following use factors:
 111 a. The condition of the property.

BILL

ORIGINAL

YEAR

112 b. The present market value of the property in its current
 113 use for the foreseeable future.

114 c. The income produced by the property.

115 2. In no event shall the assessed value of the property
 116 exceed just value.

117 3. When a parcel contains both uses eligible for
 118 assessment under this section and uses that are not eligible for
 119 assessment under this section, those portions of the property
 120 that are not eligible for assessment under this section must be
 121 assessed separately as otherwise provided by this chapter.

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

BILL ORIGINAL YEAR

140 and a copy of the lease or affidavit accompanies the
 141 application. An applicant may withdraw an application on or
 142 before the 25th day following the mailing of the notice of
 143 proposed property taxes pursuant to s. 200.069 in the year the
 144 application was filed.

145 2. Failure of a property owner or lessee to apply for a
 146 classification as working waterfront property by March 1
 147 constitutes a waiver for 1 year of the privilege granted in this
 148 section. However, a person who is qualified to receive a working
 149 waterfront classification but who fails to timely apply for
 150 classification may file an application for classification with
 151 the property appraiser on or before the 25th day following the
 152 mailing of proposed property taxes pursuant to s. 200.069. Upon
 153 review of the application, if the applicant is qualified to
 154 receive the classification and demonstrates particular
 155 extenuating circumstances that warrant the classification, the
 156 property appraiser may grant the classification.

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

164 4. Notwithstanding subparagraph 3., a new application for
 165 classification as working waterfront property must be filed with
 166 the property appraiser whenever any property granted the
 167 classification as working waterfront property is sold or

BILL ORIGINAL YEAR

168 otherwise disposed of, whenever ownership or the lessee changes
 169 in any manner, whenever the owner or the lessee ceases to use
 170 the property as working waterfront property, or whenever the
 171 status of the owner or the lessee changes so as to change the
 172 classified status of the property.

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

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

BILL

ORIGINAL

YEAR

196 b. The property appraiser making such determination shall
 197 record in the public records of the county in which the working
 198 waterfront property is located a notice of tax lien against any
 199 property owned by the working waterfront property owner, and
 200 such property must be identified in the notice of tax lien. Such
 201 property is subject to the payment of all taxes and penalties.
 202 Such lien, when filed, attaches to any property identified in
 203 the notice of tax lien owned by the person or entity that
 204 illegally or improperly received the classification. If such
 205 person or entity no longer owns property in that county but owns
 206 property in another county or counties in the state, the
 207 property appraiser shall record in such other county or counties
 208 a notice of tax lien identifying the property owned by the
 209 working waterfront property owner in such county or counties
 210 which shall become a lien against the identified property.

211 7. The property appraiser shall have available at his or
 212 her office a list by ownership of all applications for
 213 classification as working waterfront property received, showing
 214 the acreage, the just valuation under s. 193.011, the value of
 215 the land under the provisions of this subsection, and whether
 216 the classification was granted.

217 (3) DENIAL OF CLASSIFICATION; APPEAL.—

218 (a) If an application for working waterfront
 219 classification is made by March 1, the property appraiser shall
 220 notify the applicant in writing of a denial of the application
 221 on or before July 1 of the year for which the application was
 222 filed. The notification shall advise the applicant of his or her
 223 right to appeal to the value adjustment board and of the appeal

BILL ORIGINAL YEAR

224 filing deadline.
 225 (b) Any applicant whose application for classification as
 226 working waterfront property is denied by the property appraiser
 227 may appeal to the value adjustment board by filing a petition
 228 requesting that the classification be granted. The petition may
 229 be filed on or before the 25th day following the mailing of the
 230 assessment notice by the property appraiser as required under s.
 231 194.011(1). The petitioner shall pay a nonrefundable fee of \$15
 232 upon filing the petition. Upon the value adjustment board's
 233 review of the petition, if the petitioner is qualified to
 234 receive the classification, the value adjustment board may grant
 235 the petition and classification.
 236 (c) A denial of a petition for classification by the value
 237 adjustment board may be appealed to a court of competent
 238 jurisdiction.
 239 (d) Property that has received a working waterfront
 240 classification from the value adjustment board or a court of
 241 competent jurisdiction under this subsection is entitled to
 242 receive such classification in any subsequent year until such
 243 use is changed, abandoned, or discontinued, or the ownership
 244 changes in any manner as provided in subparagraph (2)(c)4. The
 245 property appraiser shall, no later than January 31 of each year,
 246 provide notice to the property owner or lessee receiving a
 247 classification under this subsection requiring the property
 248 owner or a lessee qualified to make application to certify that
 249 the ownership and the use of the property has not changed. The
 250 department shall prescribe by rule the form of the notice to be
 251 used by the property appraiser.

BILL

ORIGINAL

YEAR

252 Section 2. Subsection (1) of section 195.073, Florida
 253 Statutes, is amended to read:
 254 195.073 Classification of property.—All items required by
 255 law to be on the assessment rolls must receive a classification
 256 based upon the use of the property. The department shall
 257 promulgate uniform definitions for all classifications. The
 258 department may designate other subclassifications of property.
 259 No assessment roll may be approved by the department which does
 260 not show proper classifications.
 261 (1) Real property must be classified according to the
 262 assessment basis of the land into the following classes:
 263 (a) Residential, subclassified into categories, one
 264 category for homestead property and one for nonhomestead
 265 property:
 266 1. Single family.
 267 2. Mobile homes.
 268 3. Multifamily.
 269 4. Condominiums.
 270 5. Cooperatives.
 271 6. Retirement homes.
 272 (b) Commercial and industrial.
 273 (c) Agricultural.
 274 (d) Nonagricultural acreage.
 275 (e) High-water recharge.
 276 (f) Historic property used for commercial or certain
 277 nonprofit purposes.
 278 (g) Exempt, wholly or partially.
 279 (h) Centrally assessed.

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL

ORIGINAL

YEAR

280 (i) Leasehold interests.
281 (j) Time-share property.
282 (k) Land assessed under s. 193.501.
283 (l) Working waterfront property.
284 (m)~~(l)~~ Other.
285 Section 3. This act shall take effect upon becoming a law,
286 and applies retroactively to January 1, 2010.

WORKING WATERFRONT ISSUES

Differences between Draft and 2009 House Bill	
ISSUE	DESCRIPTION
“Commercial Fishing Facility”	Definition has been reworded to properly include aquaculture activities.
“Water-dependent”	Definition has been reworded to ensure that the activities can only be conducted on waterfront property.
Mixed Use Property	The wording has been changed in the section requiring Fair Market Value assessments for the portion of a parcel that does not meet the criteria to be considered working waterfront property.
Other	Minor wording changes and corrected cross-references
Issues In Draft Needing More Work	
“Waters that are navigable”	Current definition speaks to the water being subject to the ebb and flow of the tide; some feel that this may be too restrictive for some inland waters (lakes).
“Marina”	The definition of “marina” may inadvertently exclude some marinas’ business models.

WORKING WATERFRONT ISSUES

Differences Between Draft and SB 1408	
ISSUE	Description of SB 1408 Language
"Waterfront"	Definition has been expanded to capture property that is separated by a public right of way, if there is common ownership of parcels and the property has direct access to the water by crossing the right of way.
Assessment Methodology	<p>(b) Property classified as working waterfront property under this section shall be assessed on the basis of current use.</p> <p>1. If the income approach to valuation is appropriate to the property and if adequate local data on market rental rates, expense rates, and vacancy rates are available, the assessed value shall be calculated using the income approach to value, using a capitalization rate based upon the debt coverage ratio formula, adjusted for the effective tax rate and the percentage of equity multiplied by the equity yield rate. The capitalization rate shall be calculated and updated annually and shall be based on local data.</p> <p>2. If the conditions required for assessment under subparagraph 1. are not satisfied, the property appraiser shall value the property at its present cash value as if it were required to remain in its current working waterfront use.</p> <p>3. In no event shall the assessed value of the property exceed just value.</p>
Additional Uses That Will Qualify as Working Waterfronts	<p><u>I. Adds two types of property to the list of qualifying properties:</u></p> <p>7. Water-dependent facilities used for the commercial transportation of goods and people.</p> <p>8. Water-dependent facilities used for activities that support the commercial transportation of goods and people. These activities include, but are not limited to, towing, storage, and salvage.</p> <p><u>II. Intent Language:</u></p> <p>(1) INTENT.—The Legislature recognizes that Florida's traditional working waterfronts are important to the state's heritage and economic vitality, and that the conversion of working waterfronts to exclusively private uses limits public access to the state's waterways for recreational boating, fishing, and other commercial water-dependent activities. The Legislature also recognizes that the conversion of traditional working waterfronts to exclusively private uses often causes an increase in property taxes on nearby working waterfronts when these waterfronts are assessed at their highest and best use. It is the intent of the Legislature that working waterfront property, including water-dependent commercial transportation facilities and their water-dependent support facilities, shall be assessed at the property's current use, as provided by s. 4(j), Art. VII of the State Constitution.</p> <p><u>III. Adds Severability Clause</u></p>