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LC00795/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PROPERTY -- CONSERVATION AND PRESERVATION RESTRICTIONS
ON REAL PROPERTY

Introduced By: Senators Sosnowski, Nesselbush, Walaska, Bates, and P Fogarty

Date Introduced: January 24, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-39-3 of the General Laws in Chapter 34-39 entitled
2 "Conservation and Preservation Restrictions on Real Property" is hereby amended to read as
3 follows:

4 **34-39-3. Restrictions enforceable.** -- (a) No conservation restriction held by any
5 governmental body or by a charitable corporation, association, trust, or other entity whose
6 purposes include conservation of land or water areas or of a particular area, and no preservation
7 restriction held by any governmental body or by a charitable corporation, association, trust, or
8 other entity whose purposes include preservation of structures or sites of historical significance or
9 of a particular structure or site, shall be unenforceable against any owner of the restricted land or
10 structure on account of lack of privity of estate or contract, or lack of benefit to particular land, or
11 on account of the benefit being assignable or being assigned to any other governmental body or to
12 any entity with like purposes, or on account of any other doctrine of property law which might
13 cause the termination of the restriction such as, but not limited to, the doctrine of merger and tax
14 delinquency.

15 (b) This section shall not be construed to imply that any restriction easement, covenant,
16 or condition which is not covered hereunder shall, on account of any provisions hereof, be
17 unenforceable.

18 (c) The restrictions shall not be subject to the thirty year limitation on restrictive

1 covenants provided in section 34-4-21.

2 (d) The attorney general, pursuant to his or her inherent authority, may bring an action in
3 the superior court to enforce the public interest in such restrictions.

4 (e) The court in any judicial proceeding, or the decision maker in any arbitration or other
5 alternative dispute resolution proceeding, in addition to any other relief ordered, may award the
6 prevailing party, reasonable attorneys' fees and costs incurred in the action or proceeding.

7 (f) A court action affecting a conservation restriction held by a private land trust, as
8 defined in paragraph 42-17.1-2(28)(ii), may only be brought or intervened in by:

9 (1) An owner of property interest in the real property burdened by the conservation
10 restriction;

11 (2) A holder of the conservation restriction;

12 (3) A person having a third-party right of enforcement stated in the recorded conservation
13 restriction; or

14 (4) The attorney general as provided in subsection 34-39-3(d)

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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- 1 This act would specify who may bring or intervene in a court action affecting a
- 2 conservation restriction.
- 3 This act would take effect upon passage.

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