2016 -- S 2233 SUBSTITUTE A

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LC003806/SUB A
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S T A T E   O F   R H O D E   I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N   A C T

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

It is enacted by the General Assembly as follows:

1   SECTION 1. Section 34-39-5 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   **34-39-5. Release of restriction. --** (a) Subject to the express terms of a conservation or

5 preservation restriction, a restriction held by the state may be released in the same manner as land

6 held by the state may be sold under chapter 7 of title 37, a restriction held by cities and towns

7 may be released in the same manner as land held by cities and towns may be sold under § 45-2-5,

8 and a restriction held by any other governmental body may be released in accordance with

9 applicable statutes, regulations, and procedures.

10   (b) A charitable corporation, association, or other entity holding a restriction may release

11 that restriction in accordance with the express terms of a restriction, applicable bylaws, or charter

12 provisions of the holding entity, and applicable statutes and regulations.

13   (c) A conservation or preservation restriction may not be terminated or amended in such

14 a manner as to materially detract from the conservation or preservation values intended for

15 protection, without the prior approval of the court in an action in which the attorney general has

16 been made a party. Termination ~~or amendment that materially detracts from the conservation or~~

17 ~~preservation values intended for protection~~ may be approved only when it is found by the court

18 that the conservation or preservation restriction~~, or the provision proposed to be amended, as the~~

1   ~~case may be,~~ does not serve the public interest or publicly beneficial conservation or preservation

2   purpose, taking into account, among other things, the purposes expressed by the parties in the

3   restriction. An amendment that materially detracts from a specific conservation or preservation

4   value intended for protection may be approved only when it is found by the court that the

5   proposed amendment: is between a separate distinct conservation or preservation restriction

6   holder and the fee landowner; creates a net gain in the overall conservation or preservation

7   purpose for which it was intended; and is consistent with the conservation or preservation

8   purposes expressed by the parties in the restriction and the public conservation or preservation

9   interest. No such approval may be sought except with the consent of the holder. If the value of

10   the landowner's estate is increased by reason of the amendment or termination of a conservation

11   or preservation restriction, that increase shall be paid over to the holder, or to such non-profit or

12   governmental entity as the court may designate, to be used for the protection of conservation

13   lands or historic resources consistent, as nearly possible, with the stated publicly beneficial

14   conservation or preservation purposes of the restriction.

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

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

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1   This act would require the court, when deciding whether or not to grant amendments to

2   certain conservation restrictions that materially detract from a specific conservation purpose or

3   preservation value, to find that the proposed amendment: is between a separate distinct

4   conservation or preservation restriction holder and the fee landowner; creates a net gain in the

5   overall conservation or preservation purpose; is consistent with the purposes expressed by the

6   parties in the restriction, and is in the public interest.

7   This act would take effect upon passage.

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