

2021 -- S 0094

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

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

Introduced By: Senators DiPalma, Euer, Rogers, Sosnowski, and Burke

Date Introduced: January 26, 2021

Referred To: Senate Finance

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 "Conservation  
2 and Preservation Restrictions on Real Property" is hereby amended to read as follows:

3 **34-39-3. Restrictions enforceable.**

4 (a) No conservation restriction held by any governmental body or by a charitable  
5 corporation, association, trust, or other entity whose purposes include conservation of land or water  
6 areas or of a particular area, and no preservation restriction held by any governmental body or by  
7 a charitable corporation, association, trust, or other entity whose purposes include preservation of  
8 structures or sites of historical significance or of a particular structure or site, shall be unenforceable  
9 against any owner of the restricted land or structure on account of lack of privity of estate or  
10 contract, or lack of benefit to particular land, or on account of the benefit being assignable or being  
11 assigned to any other governmental body or to any entity with like purposes, or on account of any  
12 other doctrine of property law which might cause the termination of the restriction such as, but not  
13 limited to, the doctrine of merger and tax delinquency. [Conservation or preservation restrictions](#)  
14 [shall be liberally interpreted in favor of the grants awarded to effect the purposes of those easements](#)  
15 [and the policies and purpose of this chapter.](#)

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

1 (c) The restrictions shall not be subject to the thirty year limitation on restrictive covenants  
2 provided in § 34-4-21.

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

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

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

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

12 (2) A holder of the conservation restriction;

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

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

16 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  
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- 1           This act would require conservation and preservation restrictions to be liberally interpreted
- 2 in favor of the grants awarded.
- 3           This act would take effect upon passage.

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