

2010 -- S 2161

LC00783

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO PROPERTY - CONSERVATION AND PRESERVATION RESTRICTIONS
ON REAL PROPERTY

Introduced By: Senators Sosnowski, Tassoni, Sheehan, Lenihan, and Gallo

Date Introduced: February 04, 2010

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.

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

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

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

3 (e) If the court in any judicial enforcement proceeding, or the decision maker in any
4 arbitration or other alternative dispute resolution enforcement proceeding, finds there has been a
5 violation of the restriction then, in addition to any other relief ordered, the petitioner bringing the
6 action or proceeding may be awarded reasonable attorneys' fees and cost incurred in the action or
7 proceeding.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would authorize the attorney general to bring an action to enforce the public
2 interest regarding conservation restrictions, and would also allow reasonable attorneys' fees to be
3 awarded to a successful petitioner in connection with conservation restriction proceedings.

4 This act would take effect upon passage.

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