

2011 -- S 0234

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LC00807
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PROPERTY - CONSERVATION RESTRICTIONS

Introduced By: Senators Sosnowski, Walaska, Bates, Sheehan, and Goodwin

Date Introduced: February 09, 2011

Referred To: Senate Judiciary

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 section
8 45-2-5, and a restriction held by any other governmental body may be released in accordance
9 with 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 superior court in an action in which the attorney
16 general has been made a party. Termination, or amendment that materially detracts from the
17 conservation or preservation value intended for protection, may be approved only when it is
18 found by the court that the conservation or preservation restriction, or the provision proposed to
19 be amended, does not negatively impact the conservation or preservation purposes expressed by

1 [the parties in the restriction. No such approval may be sought except with the consent of the](#)
2 [holder.](#)

3 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 provide that a conservation or preservation restriction may not be
2 terminated or amended to materially detract from the conservation and preservation values
3 intended for protection without prior approval of the superior court in an action in which the
4 attorney general is a party.

5 This act would take effect upon passage.

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