

APPENDIX A
Rhode Island General Laws

Title 34: Property

Chapter 39: Conservation and Preservation Restrictions on Real Property

§ 34-39-1 Purpose. – The purpose of this chapter is to grant a special legal status to conservation restrictions and preservation restrictions so that landowners wishing to protect and preserve real property may do so without uncertainty as to the legal effect and enforceability of those restrictions. This chapter is further intended to provide the people of Rhode Island with the continued diversity of history and landscape that is unique to this state without great expenditures of public funds.

§ 34-39-2 Definitions. –

(a) A “conservation restriction” shall mean a right to prohibit or require a limitation upon or an obligation to perform acts on or with respect to or uses of a land or water area, whether stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the area or in any order of taking, which right, limitation, or obligation is appropriate to retain or maintain the land or water area, or is appropriate to provide the public the benefit of the unique features of the land or water area, including improvements thereon predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space, wildlife, or forest use, or in other use or condition consistent with the protection of environmental quality.

(b) A “preservation restriction” shall mean a right to prohibit or require a limitation upon or an obligation to perform acts on or with respect to or uses of a structure or site historically significant for its architecture, archaeology, or associations, whether stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the structure or site or in any order of taking, which right, limitation or obligation is appropriate to the preservation or restoration of the structure or site.

§ 34-39-3 Restrictions enforceable. –

(a) No conservation restriction held by any governmental body or by a charitable corporation, association, trust, or other entity whose purposes include conservation of

land or water areas or of a particular area, and no preservation restriction held by any governmental body or by a charitable corporation, association, trust, or other entity whose purposes include preservation of structures or sites of historical significance or of a particular structure or site, shall be unenforceable against any owner of the restricted land or structure on account of lack of privity of estate or contract, or lack of benefit to particular land, or on account of the benefit being assignable or being assigned to any other governmental body or to any entity with like purposes, or on account of any other doctrine of property law which might cause the termination of the restriction.

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

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

§ 34-39-4 Interests in real estate. – Conservation and preservation restrictions are interests in real estate and a document creating a restriction shall be deemed a conveyance of real estate for purposes of chapters 11 and 13 of this title. A restriction may be enforced by an action at law or by injunction or other proceeding in equity.

§ 34-39-5 Release of restriction. –

(a) Subject to the express terms of a conservation or preservation restriction, a restriction held by the state may be released in the same manner as land held by the state may be sold under chapter 7 of title 37, a restriction held by cities and towns may be released in the same manner as land held by cities and towns may be sold under § 45-2-5, and a restriction held by any other governmental body may be released in accordance with applicable statutes, regulations, and procedures.

(b) A charitable corporation, association, or other entity holding a restriction may release that restriction in accordance with the express terms of a restriction, applicable bylaws, or charter provisions of the holding entity, and applicable statutes and regulations.