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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PROPERTY - THE HOLDERS OF LOW AND MODERATE INCOME
HOUSING RESTRICTIONS ACT

Introduced By: Representatives Marshall, O'Brien, Malik, Costantino, and Almeida

Date Introduced: February 14, 2013

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-39.1-2, 34-39.1-3 and 34-39.1-6 of the General Laws in
2 Chapter 34-39.1 entitled "The Holders of Low and Moderate Income Housing Restrictions Act"
3 are hereby amended to read as follows:

4 **34-39.1-2. Legislative purpose. --** The general assembly recognizes and declares that
5 there exists in the state of Rhode Island a serious shortage of decent, safe and sanitary housing
6 units available and affordable to persons and families of low and moderate income [as well as](#)
7 [senior citizens](#). The inadequacy in the supply of decent, safe, and sanitary affordable housing
8 endangers the public health and jeopardizes the public safety, general welfare, and good of the
9 entire state. To obtain the benefits of restrictions which seek to preserve and maintain affordable
10 housing, the general assembly does hereby grant special status to the restrictions so a restriction
11 holder may enforce the restrictions without uncertainty as to the legal effect and enforceability of
12 the restrictions.

13 **34-39.1-3. Definitions. --** For purposes of this chapter:

14 (1) "Housing restriction" means any obligation or requirement to maintain real estate
15 affordable for rental to or purchase by low and moderate income citizens [as well as senior citizens](#)
16 of the state or any limitation on the future use or transfer of the real estate, whether stated in the
17 form of a charge, encumbrance, financing instrument, easement, covenant, or condition in any
18 deed, agreement, or other instrument executed by or on behalf of the owner of the real estate.

1 (2) "Restriction holder" means any nonprofit corporation, partnership, association,
2 cooperative, or trust established for the primary purpose of owning, operating, leasing,
3 preserving, or maintaining housing affordable to persons and families of low and moderate
4 income [as well as senior citizens](#) and entities that provide financing, land, or other benefits related
5 to the development and preservation of affordable housing including, but not limited to, state
6 agencies, municipalities, foundations, Rhode Island housing and mortgage finance corporation,
7 and public housing authorities.

8 **34-39.1-6. Invalidity of certain restrictive covenants.** -- Since decent, safe and sanitary
9 housing units available and affordable to persons and families of low and moderate income [as](#)
10 [well as senior citizens](#) must by their nature be situated in residential areas, including exclusively
11 residential areas and also mixed use areas, any restrictive covenant or other private legal
12 impediment which directly or indirectly prevents or restricts the establishment of housing subject
13 to a housing restriction as defined in this chapter, excluding conservation restrictions and
14 preservation restrictions as defined in section 34-39-2, shall be void and unenforceable; [provided,](#)
15 [however, that the city or town council of the municipality where said restrictive covenant or other](#)
16 [legal impediment applies may override the provisions of this section by a majority vote of the](#)
17 [members of said council as designated by law.](#)

18 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 expand the provisions of the statute to include senior citizen housing and
2 provide a mechanism for the local city or town council to uphold restrictive covenants preventing
3 the construction of low and moderate income as well as senior citizen housing.

4 This act would take effect upon passage.

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