



General Assembly

February Session, 2012

Raised Bill No. 90

LCO No. 742

00742_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT ESTABLISHING A LOAN PROGRAM FOR THE REMOVAL OF HAZARDOUS TREES FROM PRIVATE PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2013*) (a) Each insurer
2 delivering or issuing for delivery in this state a homeowners insurance
3 policy or a commercial general liability insurance policy shall establish
4 a program to provide loans to policyholders of such policies for the
5 removal of hazardous trees from residential and commercial property
6 located in the state and insured by such insurer.

7 (b) (1) Any such policyholder may request the town tree warden,
8 borough tree warden, city forester or city officer with similar duties of
9 the municipality in which such residential or commercial property is
10 located to inspect a tree on such property that may pose a present or
11 potential hazard to (A) a street, highway or other public right-of-way,
12 (B) poles, wires, conduits or other fixtures of a public service company,
13 as defined in section 16-1 of the general statutes, or (C) a house or
14 building insured under the policyholder's homeowners insurance
15 policy or commercial general liability insurance policy. The warden,
16 forester or official shall schedule an inspection not later than sixty

17 calendar days after such request.

18 (2) A town tree warden, borough tree warden, city forester or city
19 officer with similar duties may inspect a tree on such commercial or
20 residential property without a request from a policyholder if such tree
21 may pose a present or potential hazard, provided such warden,
22 forester or officer obtains written consent from the policyholder or the
23 policyholder's authorized representative prior to such inspection. The
24 warden, forester or officer shall perform such inspection not later than
25 thirty calendar days after obtaining such consent.

26 (3) Not later than ten business days after performing an inspection,
27 the warden, forester or officer shall send to the policyholder or the
28 policyholder's authorized representative, by first-class mail or
29 electronic mail, a letter that certifies whether, in such warden's
30 forester's or officer's opinion, the tree inspected poses a present or
31 potential hazard, as determined pursuant to regulations adopted
32 under subsection (e) of this section and the specific findings relied
33 upon to reach such opinion. Such findings may include, but are not
34 limited to, (A) the tree is determined to be of an age and general
35 condition that is highly likely to sustain major damage from a storm or
36 prolonged drought, (B) the tree shows evidence of disease or damage
37 from a previous storm that heightens its risk of further damage, (C) the
38 tree is of a species and size that is known to be at risk from disease,
39 drought or similar factors that may weaken it in ways that are not
40 evident, or (D) the tree's size, location on rock ledge and shallow root
41 structure increase its probability of sustaining major damage from a
42 storm or prolonged drought.

43 (c) (1) If the town tree warden, borough tree warden, city forester or
44 city officer with similar duties finds that the tree inspected poses a
45 present or potential hazard, upon submission of the letter set forth in
46 subdivision (3) of subsection (b) of this section by the policyholder to
47 the policyholder's insurer, the insurer shall send to the policyholder,
48 not later than five business days after receiving such submission, by

49 first-class mail or electronic mail, a loan application in a form
50 prescribed by the Insurance Commissioner. Such application shall
51 include, but not be limited to: (A) The offer to a policyholder to choose
52 a licensed contractor, to be paid by the insurer, to remove the tree,
53 provided the policyholder submits to the insurer a quote for the tree
54 removal from such contractor. If the policyholder does not choose a
55 contractor to remove the tree, the insurer shall choose a contractor; and
56 (B) the date, to be not less than ten business days after the policyholder
57 receives the application, by which the policyholder must return the
58 application and any additional information required under this
59 subdivision to the insurer.

60 (2) Not later than five business days after the insurer receives the
61 completed application from the policyholder and any additional
62 information required under subdivision (1) of this subsection, the
63 insurer shall send to the policyholder a loan agreement, in a form
64 prescribed by the Insurance Commissioner, that specifies the
65 conditions of the loan, including, but not limited to, the interest rate of
66 and any supplemental charges for such loan to be assessed against the
67 policyholder, the repayment terms of such loan, any penalties to be
68 imposed on the policyholder for late payment or nonpayment and the
69 date, to be not less than ten business days after the policyholder
70 receives the agreement, by which the signed agreement must be
71 returned to the insurer.

72 (d) (1) If the policyholder fails to pay the insurer in accordance with
73 the provisions of the loan agreement, the insurer may bring a civil
74 action in the Superior Court to recover any outstanding loan payment,
75 interest, attorneys' fees and reasonable costs, provided at least ten
76 business days' advance notice is given to such policyholder, who may
77 avoid the bringing of such action by remitting in full to the insurer any
78 outstanding loan payment.

79 (2) In addition to, or in lieu of, the provisions of subdivision (1) of
80 this subsection, the Insurance Commissioner may impose a civil

81 penalty of not more than three thousand dollars on a policyholder that
82 fails to pay the insurer in accordance with the provisions of the loan
83 agreement, provided at least ten business days' advance notice is given
84 to such policyholder, who may avoid the imposition of such penalty
85 by remitting in full to the insurer any outstanding loan payment.

86 (e) Not later than January 1, 2013, the Commissioner of Energy and
87 Environmental Protection and the Insurance Commissioner, acting
88 jointly, shall adopt regulations, in accordance with the provisions of
89 chapter 54 of the general statutes, to implement the provisions of this
90 section. Such regulations shall include, but not be limited to, (1) criteria
91 to determine that a tree poses a present hazard or a potential hazard,
92 (2) the interest rate, supplemental charges, repayment options and
93 time periods an insurer may use for a loan, and (3) the form of the loan
94 application and loan agreement under subsection (c) of this section.

95 Sec. 2. Section 23-59 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective January 1, 2013*):

97 (a) The town or borough tree warden shall have the care and control
98 of all trees and shrubs in whole or in part within the limits of any
99 public road or grounds and within the limits of his town or borough,
100 except those along state highways under the control of the
101 Commissioner of Transportation and except those in public parks or
102 grounds which are under the jurisdiction of park commissioners, and
103 of these the tree warden shall take the care and control if so requested
104 in writing by the park commissioners. Such care and control shall
105 extend to such limbs, roots or parts of trees and shrubs as extend or
106 overhang the limits of any such public road or grounds. The tree
107 warden shall expend all funds appropriated for the setting out, care
108 and maintenance of such trees and shrubs. The tree warden shall
109 enforce all provisions of law for the preservation of such trees and
110 shrubs and of roadside beauty. The tree warden shall remove or cause
111 to be removed all illegally erected signs or advertisements, placed
112 upon poles, trees or other objects within any public road or place

113 under the tree warden's jurisdiction. The tree warden may prescribe
114 such regulations for the care and preservation of such trees and shrubs
115 as the tree warden deems expedient and may provide therein for a
116 reasonable fine for the violation of such regulations; and such
117 regulations, when approved by the selectmen or borough warden and
118 posted on a public signpost in the town or borough, if any, or at some
119 other exterior place near the office of the town or borough clerk, shall
120 have the force and effect of town or borough ordinances. Whenever, in
121 the opinion of the tree warden, the public safety demands the removal
122 or pruning of any tree or shrub under the tree warden's control, the
123 tree warden may cause such tree or shrub to be removed or pruned at
124 the expense of the town or borough and the selectmen or borough
125 warden shall order paid to the person performing such work such
126 reasonable compensation therefor as may be determined and
127 approved in writing by the tree warden. Unless the condition of such
128 tree or shrub constitutes an immediate public hazard, the tree warden
129 shall, at least ten days before such removal or pruning, post thereon a
130 suitable notice stating the tree warden's intention to remove or prune
131 such tree or shrub. If any person, firm or corporation objects to such
132 removal or pruning, such person, firm or corporation may appeal to
133 the tree warden in writing, who shall hold a public hearing at some
134 suitable time and place after giving reasonable notice of such hearing
135 to all persons known to be interested therein and posting a notice
136 thereof on such tree or shrub. Within three days after such hearing, the
137 tree warden shall render a decision granting or denying the
138 application, and the party aggrieved by such decision may, within ten
139 days, appeal therefrom to the superior court for the judicial district
140 within which such town or borough is located. The tree warden may,
141 with the approval of the selectmen or borough warden, remove any
142 trees or other plants within the limits of public highways or grounds
143 under the tree warden's jurisdiction that are particularly obnoxious as
144 hosts of insect or fungus pests.

145 (b) The town or borough tree warden, city forester and city officer
146 with similar duties shall inspect a tree on a residential or commercial

147 property in accordance with the provisions of section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2013</i>	New section
Sec. 2	<i>January 1, 2013</i>	23-59

Statement of Purpose:

To require insurers that deliver or issue for delivery in this state a homeowners insurance policy or a commercial general liability insurance policy to establish a program to provide loans to policyholders for proactive tree removal on residential or commercial property, and to require town tree wardens, borough tree wardens, city foresters or city officers with similar duties to inspect trees on residential or commercial property that pose a present or potential hazard.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]