



House of Representatives

General Assembly

File No. 746

January Session, 2015

Substitute House Bill No. 5602

House of Representatives, April 27, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB.

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

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) If a tree located on
2 private real property, other than real property owned by a political
3 subdivision of the state or a nonprofit organization qualified as a tax-
4 exempt organization under Section 501(c)(3) of the Internal Revenue
5 Code of 1986, or any subsequent corresponding internal revenue code
6 of the United States, as amended from time to time, or a limb from
7 such tree falls on an adjoining private property owner's land, the
8 owner of the real property from which such tree or limb fell shall be
9 liable for the expenses of removing such tree or limb from such
10 adjoining private property owner's land, if, prior to such tree or limb
11 falling: (1) An arborist, as defined in section 23-61a of the general
12 statutes, inspected the tree and documented that the tree or limb was
13 diseased or likely to fall; (2) the adjoining private property owner
14 provided written notice by certified mail to the owner of the real

15 property from which such tree or limb fell that the tree or limb was
 16 diseased or likely to fall and requested that such tree or limb be
 17 removed or pruned; and (3) the owner of the real property from which
 18 such tree or limb fell failed to remove or prune such tree or limb
 19 within thirty days of the date of receiving such written notice. If the
 20 arborist requires access to the property to inspect the tree and the
 21 property owner on which such tree is located refuses consent for such
 22 inspection, the arborist may limit such inspection to the portions of the
 23 tree or limb that are visible from the adjoining private property
 24 owner's land. Notwithstanding the provisions of this subsection, any
 25 notice provided to an adjoining private property owner prior to
 26 October 1, 2015, that meets the requirements of subdivision (2) of this
 27 subsection shall be valid notice for purposes of this section.

28 (b) The provisions of this section shall not affect any rights of a
 29 policyholder under a liability insurance policy, except that the
 30 insurance company that issued such insurance policy may deduct from
 31 any amount owed to such insured for a covered loss arising from such
 32 tree or limb falling, the amount recovered by the policyholder
 33 pursuant to subsection (a) of this section to the extent that such
 34 amount would have been a covered loss under such insurance policy.

35 (c) The provisions of this section shall not be construed to limit any
 36 person's right to pursue any additional civil remedy otherwise allowed
 37 by law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill establishes certain provisions concerning fallen trees or limbs on private property. There is no state or municipal fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis

sHB 5602

AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB.

SUMMARY:

This bill establishes conditions in which a private land owner is liable to pay for removing a tree or tree limb that falls from his or her property onto an adjoining private owner's land. The bill excludes nonprofit organizations from this liability. It also specifically excludes political subdivisions of the state.

Under the bill, the owner is liable if, before the tree or limb fell:

1. a licensed arborist inspected the tree and documented that the tree or limb was diseased or likely to fall;
2. the adjoining private property owner notified the land owner, by certified mail, about the tree's or limb's condition (presumably based on the inspection), and requested that the tree or limb be removed or pruned; and
3. the land owner failed to do so within 30 days after receiving this notice.

Under the bill, if an arborist needs access to the property for this inspection and the owner does not consent, the arborist can limit the inspection to the tree or limb portions that are visible from the adjoining land.

Any notice given a tree owner before October 1, 2015 that meets the bill's requirements is valid for its purposes.

The bill allows an insurance company to deduct from a payment

under a liability policy the amount the policyholder recovers under the bill, to the extent that amount would be a covered loss under the policy. It does not otherwise affect a policyholder's rights under a liability policy.

It also does not limit anyone's right to pursue other civil remedies as allowed by law.

EFFECTIVE DATE: October 1, 2015

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 35 Nay 4 (04/10/2015)