



General Assembly

Amendment

January Session, 2015

LCO No. 8664



Offered by:

REP. TONG, 147th Dist.
REP. REBIMBAS, 70th Dist.
REP. GENTILE, 104th Dist.
REP. ROJAS, 9th Dist.

To: Subst. House Bill No. 5602

File No. 746

Cal. No. 490

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2015*) (a) If a tree located on
4 private real property, other than real property owned by a political
5 subdivision of the state, a water company, as defined in section 25-32q
6 of the general statutes, or a nonprofit organization qualified as a tax-
7 exempt organization under Section 501(c)(3) of the Internal Revenue
8 Code of 1986, or any subsequent corresponding internal revenue code
9 of the United States, as amended from time to time, or a limb from
10 such tree falls on an adjoining private property owner's land, the
11 owner of the real property from which such tree or limb fell shall be
12 presumed liable for the expenses of removing such tree or limb from

13 such adjoining private property owner's land, if, prior to such tree or
14 limb falling: (1) An arborist, as defined in section 23-61a of the general
15 statutes, inspected the tree and documented that the tree or limb was
16 diseased, decayed or damaged and likely to fall; (2) the adjoining
17 private property owner provided written notice by certified mail,
18 return receipt requested, to the owner of the real property from which
19 such tree or limb fell that the tree or limb was diseased, decayed or
20 damaged and likely to fall and requested that the condition be cured
21 by removal, pruning, spraying or any other appropriate method; and
22 (3) the owner of the real property from which such tree or limb fell
23 failed to cure the condition by removal, pruning, spraying or any other
24 appropriate method within thirty days of the date of receiving such
25 written notice. No property owner shall be required to provide access
26 to his or her property for inspection by such arborist. Such arborist's
27 inability to access property for such inspection shall not waive the
28 requirement that such arborist make a determination that a tree or
29 limb is diseased, decayed or damaged and likely to fall.

30 (b) The presumption in subsection (a) of this section may be
31 rebutted upon a showing that: (1) After notice is given as described in
32 subdivision (2) of subsection (a) of this section, an arborist, as defined
33 in section 23-61a of the general statutes, inspected the tree or limb and
34 documented that the tree or limb was not diseased, decayed or
35 damaged and likely to fall; or (2) such tree or limb fell as a result of
36 fire, lightning strike or impact with another physical object, including,
37 but not limited to, a motor vehicle collision.

38 (c) The provisions of this section shall not affect any rights of a
39 policyholder under a liability insurance policy, except that the
40 insurance company that issued such insurance policy may deduct from
41 any amount owed to such insured for a covered loss arising from such
42 tree or limb falling, the amount recovered by the policyholder
43 pursuant to subsection (a) of this section to the extent that such
44 amount would have been a covered loss under such insurance policy.

45 (d) The provisions of this section shall not be construed to limit any

46 person's right to pursue any additional civil remedy otherwise allowed
47 by law."

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