



General Assembly

Amendment

January Session, 2015

LCO No. 9338



Offered by:

REP. TONG, 147th Dist.
REP. REBIMBAS, 70th Dist.
REP. CAMILLO, 151st 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, or a limb from such tree falls on an adjoining
5 private property owner's land, the owner of the real property from
6 which such tree or limb fell shall be presumed liable for the expenses
7 of removing such tree or limb from such adjoining private property
8 owner's land, if, prior to such tree or limb falling: (1) An arborist, as
9 defined in section 23-61a of the general statutes, inspected the tree and
10 documented that the tree or limb was diseased, decayed or damaged
11 and likely to fall within five years of the date of such inspection; (2) the
12 adjoining private property owner provided written notice by certified
13 mail, return receipt requested, to the owner of the real property from

14 which such tree or limb fell that the tree or limb was diseased, decayed
15 or damaged and likely to fall within five years of the date of such
16 inspection and requested that the condition be cured by removal,
17 pruning, spraying or any other appropriate method; and (3) the owner
18 of the real property from which such tree or limb fell failed to cure the
19 condition by removal, pruning, spraying or any other appropriate
20 method within ninety days of the date of receiving such written notice.
21 No property owner shall be required to provide access to his or her
22 property for inspection by such arborist. Such arborist's inability to
23 access property for such inspection shall not waive the requirement
24 that such arborist make a determination that a tree or limb is diseased,
25 decayed or damaged and likely to fall within five years of the date of
26 such inspection. Written notice provided by a private property owner
27 pursuant to this subsection shall be deemed personal to the particular
28 owner providing such notice and shall not run with the land.

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

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

44 (d) The provisions of this section shall not be construed to limit any
45 person's right to pursue any additional civil remedy otherwise allowed
46 by law.

47 (e) As used in this section "private real property" does not include:
 48 (1) Real property owned by a political subdivision of the state, a water
 49 company as defined in section 25-32a of the general statutes, or a
 50 nonprofit organization qualified as a tax-exempt organization under
 51 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
 52 subsequent corresponding internal revenue code of the United States;
 53 (2) real property that is subject to a conservation easement held by
 54 such nonprofit organization; (3) timber land as described in section 12-
 55 97 of the general statutes; or (4) forest land as described in section 12-
 56 107d of the general statutes."

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