



TREE REMOVAL

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ISSUE

Summarize existing law and recent legislation on maintenance or removal of trees on private property that may pose a danger to a neighbor's property.

This report has been updated by [OLR Report 2017-R-0221](#).

SUMMARY

Existing law on this issue is largely a matter of common law (case law) rather than statute. As a general rule under the common law, a property owner has a duty to maintain the trees on his or her property in a way that prevents them from harming a neighbor's property. If the property owner knows, or reasonably should know, that a defect in the trees (e.g., rot) poses an unreasonable danger to others, the owner must eliminate the danger. If the owner does not, he or she may be liable for the damage the tree causes.

On the other hand, the owner of the property with the trees may be able to avoid liability by demonstrating that the harm was caused by an "act of God" (such as a hurricane). A property owner does not have a responsibility to remove healthy trees just because the wind might blow them down onto a neighbor's property under extreme conditions.

Under Connecticut case law, if a tree is growing on one person's land but its branches or roots encroach on a neighbor's land, the neighbor can cut off the branches or roots up to the line of his or her land (see *McCarran v. Town Planning & Zoning Commission*, 161 Conn. 65 (1971)).

A statute imposes liability for cutting a tree on another person's land without permission. Generally, a person who does so must pay the tree's owner three times the tree's reasonable value or five times the reasonable value if the tree is intended for sale or use as a Christmas tree. But if the person cut the tree by mistake while



believing that the tree was on his or her own land, the person must pay only the tree's reasonable value ([CGS § 52-560](#)).

In 2014, the legislature passed a bill ([HB 5220](#), PA 14-125) that would have made the owner of private real property from which a tree or branch falls onto adjoining private property liable for the expense of removing the tree or branch, if the tree owner failed to act within 30 days of receiving the neighbor's notice of the tree's poor condition. However, the governor vetoed the legislation.

In 2015, the Judiciary Committee voted out a generally similar bill ([HB 5602](#)) that addressed certain issues raised about the vetoed bill. The 2015 bill died on the House calendar.

VETOED 2014 LEGISLATION

[PA 14-125](#) would make the owner of private real property from which a tree or branch falls onto adjoining private property (tree owner) liable for the expense of removing the tree or branch if (1) the adjoining property owner had previously notified the tree owner, in writing, that the tree or branch was diseased or likely to fall and (2) the tree owner failed to remove or prune the tree or branch within 30 days after receiving this notice.

Under the act, the adjoining property owner would have to send the written notice to the tree owner by certified mail, asking the tree owner to prune or remove the tree or branch. Any notice given to a tree owner before the act took effect that met the act's requirements would be valid for its purposes.

The act would not limit anyone's right to pursue other civil remedies as allowed by law. It also would not affect any rights a policyholder may have under a liability insurance policy, except an insurer could deduct from any amount it owed the insured the amount the policyholder recovered from the tree owner, to the extent the policy would have covered the loss.

Governor Malloy vetoed the legislation. In his [veto message](#), he expressed his view that the bill "attempts to address a legitimate issue" but "could lead to the unnecessary removal of healthy trees." Among other things, the governor stated his concern that the bill "is weighted too heavily in favor of neighbors who want branches and trees taken down and provides no avenue for a tree owner to contest a neighbor's assertion that their tree or branch is 'likely to fall.'"

2015 LEGISLATION

[HB 5602](#) was voted out of the Judiciary Committee but not acted upon by the House. It differed from the 2014 vetoed bill in the following respects.

The 2014 bill applied to trees located on private real property. The 2015 bill excluded from its provisions trees on land owned by nonprofit organizations. It also specifically excluded trees on land owned by political subdivisions of the state.

Also, unlike the 2014 bill, the 2015 bill required an arborist's inspection as a prerequisite to imposing liability. Specifically, in addition to the neighbor's notice requirements, a licensed arborist must have inspected the tree and documented that the tree or limb was diseased or likely to fall. If the arborist needs access to the property for this inspection and the owner does not consent, the arborist could limit the inspection to the tree or limb portions that are visible from the adjoining land.

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