



General Assembly

February Session, 2016

**Raised Bill No. 5258**

LCO No. 1234



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***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, 2016*) (a) If a tree located on  
2 private real property, or a limb from such tree falls on an adjoining  
3 private property owner's land, the owner of the real property from  
4 which such tree or limb fell shall be presumed liable for the expenses  
5 of removing such tree or limb from such adjoining private property  
6 owner's land, if, prior to such tree or limb falling: (1) An arborist, as  
7 defined in section 23-61a of the general statutes, inspected the tree and  
8 documented that the tree or limb was diseased, decayed or damaged  
9 and likely to fall within five years of the date of such inspection; (2) the  
10 adjoining private property owner provided written notice by certified  
11 mail, return receipt requested, to the owner of the real property from  
12 which such tree or limb fell that the tree or limb was diseased, decayed  
13 or damaged and likely to fall within five years of the date of such  
14 inspection and requested that the condition be cured by removal,  
15 pruning, spraying or any other appropriate method; and (3) the owner  
16 of the real property from which such tree or limb fell failed to cure the

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

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

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

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

45 (e) As used in this section "private real property" does not include:  
46 (1) Real property owned by a political subdivision of the state, a water  
47 company as defined in section 25-32a of the general statutes, or a

48 nonprofit organization qualified as a tax-exempt organization under  
49 Section 501(c)(3) of the Internal Revenue Code of 1986, or any  
50 subsequent corresponding internal revenue code of the United States;  
51 (2) real property that is subject to a conservation easement held by  
52 such nonprofit organization; (3) timber land as described in section 12-  
53 97 of the general statutes; or (4) forest land as described in section 12-  
54 107d of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section

**Statement of Purpose:**

To impose liability on certain owners of real property for the expenses of removing a tree or limb that falls on an adjoining owner's private real property.

*[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.]*