



General Assembly

Substitute Bill No. 5258

February Session, 2016

* _____HB05258INS____042116_____*

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) farm land, forest land or open space
54 land as described in sections 12-107a to 12-107f, inclusive, of the
55 general statutes.

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

JUD *Joint Favorable Subst.*

INS *Joint Favorable*