



General Assembly

January Session, 2017

Committee Bill No. 5655

LCO No. 4075

* _____HBO5655JUD____031317_____*

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, 2017*) (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
7 inspected the tree and documented that the tree or limb was diseased,
8 decayed or damaged and likely to fall within five years of the date of
9 such inspection; (2) the adjoining private property owner provided
10 written notice by certified mail, return receipt requested, to the owner
11 of the real property from which such tree or limb fell that the tree or
12 limb was diseased, decayed or damaged and likely to fall within five
13 years of the date of such inspection and requested that the condition be
14 cured by removal, pruning, spraying or any other appropriate method;
15 and (3) the owner of the real property from which such tree or limb fell
16 failed to cure the condition by removal, pruning, spraying or any other

17 appropriate method within ninety days of the date of receiving such
18 written notice. No property owner shall be required to provide access
19 to his or her property for inspection by an arborist. An arborist's
20 inability to access property for such inspection shall not waive the
21 requirement of this subsection that an arborist make a determination
22 that a tree or limb is diseased, decayed or damaged and likely to fall
23 within five years of the date of such inspection. Written notice
24 provided by a private property owner pursuant to this subsection shall
25 be deemed personal to the particular owner providing such notice and
26 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 inspected
30 the tree or limb and documented that the tree or limb was not
31 diseased, decayed or damaged and likely to fall; or (2) such tree or
32 limb fell due to a reason other than the condition described in such
33 notice, including, but not limited to, a motor vehicle collision, fire,
34 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 (1) "private real property" does not
46 include: (A) Real property owned by a political subdivision of the
47 state, a water company, as defined in section 25-32a of the general
48 statutes, or a nonprofit organization qualified as a tax-exempt

49 organization under Section 501(c)(3) of the Internal Revenue Code of
50 1986, or any subsequent corresponding internal revenue code of the
51 United States, as amended from time to time; (B) real property that is
52 subject to a conservation easement held by such nonprofit
53 organization; (C) timber land as described in section 12-97 of the
54 general statutes; or (D) farm land, forest land or open space land as
55 such terms are defined in section 12-107b of the general statutes; and
56 (2) "arborist" has the same meaning as provided in section 23-61a of the
57 general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	New section

JUD *Joint Favorable*