



General Assembly

January Session, 2017

**Committee Bill No. 5655**

LCO No. 4075

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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*

**INS**      *Joint Favorable*