



General Assembly

January Session, 2019

Raised Bill No. 7188

LCO No. 4595



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, 2019*) (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 private real property
4 from which such tree or limb fell shall be presumed liable for the
5 expenses of removing such tree or limb from such adjoining private
6 property owner's land, if, prior to such tree or limb falling: (1) An
7 arborist inspected the tree and documented that the tree or limb was
8 diseased, decayed or damaged and likely to fall within five years of the
9 date of such inspection; (2) the adjoining private property owner
10 provided written notice by certified mail, return receipt requested, to
11 the owner of the real property from which such tree or limb fell that
12 the tree or limb was diseased, decayed or damaged and likely to fall
13 within five years of the date of such inspection and requested that the
14 condition be cured by removal, pruning, spraying or any other
15 appropriate method; and (3) the owner of the private real property
16 from which such tree or limb fell failed to cure the condition by

17 removal, pruning, spraying or any other appropriate method within
18 ninety days of the date of receiving such written notice. No property
19 owner shall be required to provide access to his or her property for
20 inspection by an arborist. An arborist's inability to access property for
21 such inspection shall not waive the requirement of this subsection that
22 an 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 was given as described
29 in 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	<i>October 1, 2019</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.]