



House of Representatives

General Assembly

File No. 783

January Session, 2025

House Bill No. 7138

House of Representatives, April 28, 2025

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR TREE LIMB.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2025*) (a) (1) 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 whose tree or tree limb fell shall be presumed liable for the expenses of
- 5 removing such tree or tree limb from such adjoining private property
- 6 owner's land, if, prior to such tree or tree limb falling: (A) An arborist
- 7 inspected the tree and documented that the tree or tree limb was
- 8 diseased, decayed or damaged and likely to fall within five years of the
- 9 date of such inspection; (B) the adjoining private property owner
- 10 provided written notice by certified mail, return receipt requested, to
- 11 the owner of the private real property whose tree or tree limb fell that
- 12 the tree or tree 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 (C) the owner of the private real property
16 whose tree or tree limb fell failed to cure the condition by removal,
17 pruning, spraying or any other appropriate method within ninety days
18 of the date of receiving such written notice. No property owner shall be
19 required to provide access to his or her property for inspection by an
20 arborist. An arborist's inability to access property for such inspection
21 shall not waive the requirement of this subdivision that an arborist make
22 a determination that a tree or tree limb is diseased, decayed or damaged
23 and likely to fall within five years of the date of such inspection. Written
24 notice provided by a private property owner pursuant to this
25 subdivision shall be deemed personal to the particular owner providing
26 such notice and shall not run with the land.

27 (2) Notwithstanding the provisions of subdivision (1) of this
28 subsection, no liability shall be imposed on an owner of private real
29 property for expenses incurred to remove a fallen tree or tree limb, if (A)
30 such owner was sixty-four years of age or older on October 1, 2025, and
31 (B) such owner's median income on the date the tree or tree limb fell on
32 an adjoining property is below the median income determined by the
33 United States Department of Housing and Urban Development, for the
34 area in which the municipality containing the private real property is
35 located.

36 (b) The presumption of liability set forth in subdivision (1) of
37 subsection (a) of this section may be rebutted upon a showing that: (1)
38 After notice was given as described in subsection (a) of this section, an
39 arborist inspected the tree or tree limb and documented that the tree or
40 tree limb was not diseased, decayed or damaged and likely to fall; or (2)
41 such tree or tree limb fell due to a reason other than the condition
42 described in such notice, including, but not limited to, a motor vehicle
43 collision, fire, lightning strike or other act of God.

44 (c) The provisions of this section shall not affect any rights of a
45 policyholder under a liability insurance policy, except that the insurance
46 company that issued such insurance policy may deduct from any
47 amount owed to such insured for a covered loss arising from such tree

48 or tree limb falling, the amount recovered by the policyholder pursuant
49 to subsection (a) of this section, to the extent that such amount would
50 have been a covered loss under such insurance policy.

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

54 (e) As used in this section (1) "private real property" does not include:
55 (A) Real property owned by the state, a political subdivision of the state,
56 a water company, as defined in section 25-32a of the general statutes, or
57 a nonprofit organization qualified as a tax-exempt organization under
58 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
59 subsequent corresponding internal revenue code of the United States,
60 as amended from time to time; (B) real property that is subject to a
61 conservation easement held by such nonprofit organization; (C) timber
62 land, as described in section 12-97 of the general statutes; or (D) farm
63 land, forest land or open space land, as such terms are defined in section
64 12-107b of the general statutes; and (2) "arborist" has the same meaning
65 as provided in section 23-61a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2025	New section

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill establishes conditions for when certain private landowners are presumed liable for the expenses of removing a tree or tree limb from an adjoining private owner's land and is not anticipated to result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 7138*****AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR TREE LIMB.*****SUMMARY**

This bill establishes conditions under which a private real property owner ("landowner"), other than someone age 64 or older whose income is below the area median income, is presumed liable for the expenses of removing a tree or tree limb that fell from his or her property onto an adjoining private owner's land.

It generally makes the landowner liable for failing to act within 90 days after the adjoining owner notified him or her that, based on an arborist's inspection, a tree or limb was likely to fall within five years. The bill specifies how the presumption may be rebutted.

Among other things, it also (1) exempts certain property from its provisions, such as property owned by nonprofits, and (2) allows an insurance company, when paying for a related claim, to deduct any amount the adjoining landowner recovers under the bill.

EFFECTIVE DATE: October 1, 2025

LIABILITY FOR REMOVING FALLEN TREES***Presumption of Liability***

Under the bill, a private landowner is generally presumed liable for the expenses of removing a tree or tree limb that fell from his or her property onto an adjoining private owner's land if, before the tree or limb fell:

1. a licensed arborist inspected the tree and documented that the tree or a limb was diseased, decayed, or damaged and likely to

fall within five years of the inspection;

2. the adjoining private property owner notified the landowner of this determination and requested that the landowner cure the condition by any appropriate method (including removing, pruning, or spraying the tree); and
3. the landowner failed to do so within 90 days after receiving this notice.

The notice must be in writing and sent by certified mail, return receipt requested. The bill specifies that this notice is deemed personal to the owner who gave it and does not run with the land (that is, the presumption of liability would not apply if the owner giving the notice sold the property before the tree fell, unless the new owner gave his or her own notice).

But the bill does not allow liability under these provisions to be imposed on a landowner who is age 64 or older and whose median income is below that of the municipality's area (as determined by the U.S. Department of Housing and Urban Development).

Rebutting the Presumption

The bill's presumption of liability may be rebutted if the landowner shows that:

1. after he or she received the notice, a licensed arborist inspected the tree or limb and documented that it was not diseased, decayed, or damaged and likely to fall or
2. the tree or limb fell due to a reason other than the condition described in the notice, including a motor vehicle collision, fire, lightning, or another act of God.

Private Real Property

The bill's provisions apply only to trees on "private real property" that fall onto other private real property. Under the bill, this property does not include:

1. real property owned by the state, a political subdivision of the state, a water company, or a tax-exempt nonprofit organization;
2. real property subject to a conservation easement held by a tax-exempt nonprofit organization;
3. timber land of more than 10 years' growth; or
4. farm, forest, or open space land eligible for the "PA 490 program" (which allows this land to be assessed for property tax purposes based on its current use value rather than its fair market value).

Arborist Access and Impact on the Presumption

The bill provides that:

1. landowners are not required to allow access to their property for an arborist's inspection and
2. if an arborist is unable to access the property, this does not waive the requirement for the arborist's determination as described above to establish the presumption.

Insurance and Other Remedies

The bill allows an insurance company to deduct from a payment under a liability policy the amount the policyholder recovers under the bill, to the extent that amount would be a covered loss under the policy. It does not otherwise affect a policyholder's rights under a liability policy.

The bill also specifies that it does not limit anyone's right to pursue other civil remedies as allowed by law.

BACKGROUND

Related Case Law

While not binding on other courts, recent state Superior Court cases have concluded that, based on the Restatement (Second) of Torts, there is generally no liability between private landowners for damage caused by natural conditions on the land, including damage caused by a falling

tree (see, e.g., *Jarrett v. Lovallo*, Superior Court, judicial district of Stamford, Docket No. CV-22-5027261-S, 2024 WL 4893280 (Nov. 21, 2024) (unreported)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 35 Nay 4 (04/10/2025)