

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 724

INTRODUCER: Senator Martin and Senator Leek

SUBJECT: Property Owner Liability

DATE: March 31, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	<b>Pre-meeting</b>
2.			BI	
3.			RC	

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**I. Summary:**

SB 724 creates the Fallen Tree Act. It provides that the owner of real property is liable for any damage to a neighboring property caused by a tree or shrub growing on the real property. The Act also allows any real property owner to remove a tree or shrub located on the property line after notice to the neighbors. The bill changes the current law by which a landowner is generally not liable for damage to neighboring properties caused by vegetation that appears healthy. The bill does not apply to the owner of a parcel greater than 5 acres.

The bill is effective July 1, 2025.

**II. Present Situation:**

**Liability for Damages Caused by Falling Trees and Limbs**

The Florida Statutes do not specify who is financially responsible for damages caused by a tree or other vegetation growing into or falling onto a neighbor's property. Accordingly, the common law applies.<sup>1</sup> There is no specific case describing Florida common law on liability for damages resulting from a tree falling.<sup>2</sup> It appears that ordinary negligence law applies.

It is generally thought that a homeowner whose property is damaged by a neighbor's tree or limb falling on the property must show that the neighbor knew or should have known that the tree or limb was dead, dying, or otherwise exhibiting signs that it was in danger of falling. If an apparently healthy tree or limb falls, it is generally considered an Act of God which does not

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<sup>1</sup> Section 2.01, F.S.

<sup>2</sup> Michael T. Olexa, Jeffrey W. Treese II, and Christopher A. Hill, *Handbook of Florida Fence and Property Law: Trees and Landowner Responsibility*, <https://edis.ifas.ufl.edu/publication/FE962> (last visited Mar. 28, 2025).

give rise to a negligence claim.<sup>3</sup> This is commonly referred to as the “Massachusetts Rule.” A leading home insurer provides this guidance:

Q: What happens if the tree was on my neighbor’s property?

A: If your home is damaged by your neighbor’s tree because of wind, homeowners insurance may help pay to repair the damage to your house (or other structure, if the tree falls on your fence, for example).

Q: Am I responsible if a tree from my property damages my neighbor’s property?

A: You’re typically only considered responsible if neglect on your part was a contributing factor to the tree’s demise. If not — say a storm knocked your healthy tree onto your neighbor’s house — your neighbor will likely have to file a claim through his or her own insurance.<sup>4</sup>

### **Liability for Damages Caused by Encroachment of Roots**

A landowner is not liable for damages caused by encroachment of roots onto a neighboring property. The common law regarding roots and branches that grow over the property line is:

[A landowner] is not liable to persons outside the land for a nuisance resulting from trees and natural vegetation growing on the land. The adjoining property owner to such a nuisance, however, is privileged to trim back, at the adjoining owner’s own expense, any encroaching tree roots or branches and other vegetation which has grown onto his property.<sup>5</sup>

### **Removal of Healthy Tree on Boundary Line**

The removal of a tree on a boundary line by one landowner without the consent or authorization of the adjoining landowner may result in liability for the “reduction in value of the land resulting from removal of the tree,” as well as for the “loss of the ornamental value and creature comforts provided by the tree.”<sup>6</sup> In a leading case, a tree was located on the boundary line. One landowner was a police officer who worked night shifts and regularly had to sleep during the day. The tree shaded and cooled his bedroom during the afternoon. The neighbor removed the tree, and thereafter he had trouble sleeping. The court said:

An owner of real estate has a right to enjoy it according to his own taste and wishes, and the arrangement of buildings, shade trees, fruit trees, and the like may be very important to him, may be the result of large expense, and the modification thereof may be an injury to his convenience and comfort in the use of his premises which fairly ought to be substantially compensated, and yet the arrangement so selected

<sup>3</sup> See, *Rubin v. Appel*, 194 So. 2d 318, 319 (Fla. 3rd DCA 1967).

<sup>4</sup> Allstate, *If a fallen tree damages my house, does homeowners insurance cover it?*, <https://www.allstate.com/resources/home-insurance/tree-falls-house-damage> (last visited Mar. 27, 2025).

<sup>5</sup> *Scott v. McCarty*, 41 So. 3d 989, 989 (Fla. 4th DCA 2010) (citing *Gallo v. Heller*, 512 So.2d 215, 216 (Fla. 3d DCA 1987)); see also *Balzer v. Ryan*, 263 So.3d 189 (Fla. 1st DCA 2018).

<sup>6</sup> Olexa, Van Treese II, and Hill, *Handbook of Florida Fence and Property Law: Trees and Landowner Responsibility*, *supra* note 2; *Elowsky v. Gulf Power Co.*, 172 So.2d 643, 645 (Fla. 1st DCA 1965).

by him might be no considerable enhancement of the sale value of the premises, it might not meet the taste of others, and the disturbance of that arrangement, therefore, might not impair the general market value . . . .<sup>7</sup>

### III. Effect of Proposed Changes:

The bill creates the “Fallen Tree Act.” The bill makes the following legislative findings:

The Legislature finds that trees and shrubs, and the branches thereof, may cause damage to property when they grow or fall and that such damage is costly to property owners. The Legislature further finds that Florida’s population growth over the past half century has largely been located in neighborhoods with residences located on small lots with trees and shrubs that grow precariously close to property lines, with branches or roots encroaching over and under structures on neighboring properties or hanging close enough to cause damage to such properties should such trees or shrubs, or branches thereof, fall.

The Legislature finds that currently, under the “Massachusetts Rule,” Florida property owners are permitted to use self-help to eliminate branches and roots that encroach over their property line. However, owners of property located within a zone of danger of a fallen tree or shrub growing on another’s property are not permitted to maintain or remove the vegetation on another’s property without that owner’s permission.

The Legislature finds that property owners who suffer damage when neighbors’ trees or shrubs fall are responsible for repairing such damage, which can cause their insurance premiums to rise or insurance companies to cancel their policies, and that the property owner whose trees or shrubs create such damage is not liable for the damage, absent a showing of negligence on his or her part.

The purpose of this act is to protect property owners from bearing the burden of responsibility when they suffer damage to their property caused by trees or shrubs located on neighboring property.

The bill provides that an owner of real property is strictly liable for damages caused by a tree or shrub falling onto or growing onto a neighboring property. The bill codifies and preserves the right of a landowner to trim or cut branches or roots of a neighbor’s tree or shrub that cross into the landowner’s property.

Where a tree or shrub is growing on two or more parcels, any of the real property owners that the tree or shrub is growing on may remove the tree or shrub at the owner’s expense, provided that the property owner first give 30 days written notice to the neighbors. The notice must be posted on a prominent spot nearby and must be mailed by certified mail to all other property owners.

The Act does not apply to a property owner of a parcel greater than 5 acres.

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<sup>7</sup> *Elowsky* at 645.

The bill is effective July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have the effect of a decrease in claims by insureds on their own policies, together with a similar corresponding increase in negligence claims against neighbors. The net fiscal effect on homeowners' insurance companies, and rates, is likely to be none.

The bill may incentivize the removal of healthy trees that are currently left alone. This may lead to increased revenues for tree companies and increased expenses to homeowners. Moreover, insurance rates may increase for properties having trees near structures on adjacent properties.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 768.396 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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