

By Senator Martin

33-00153A-25

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1 A bill to be entitled
2 An act relating to property owner liability; creating
3 s. 768.396, F.S.; providing a short title; providing
4 legislative findings and purpose; providing that a
5 property owner is liable for damages caused by trees
6 or shrubs located on his or her property when they
7 fall on another's property; providing applicability;
8 providing that trees and shrubs located on two or more
9 parcels may be removed by any of the property owners
10 after serving proper notice and posting on the other
11 parcels; providing an exception; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 768.396, Florida Statutes, is created to
17 read:

18 768.396 Trees, shrubs, or branches.—

19 (1) SHORT TITLE.—This section shall be known and may be
20 cited as the "Fallen Tree Act."

21 (2) LEGISLATIVE FINDINGS AND PURPOSE.—

22 (a) The Legislature finds that trees and shrubs, and the
23 branches thereof, may cause damage to property when they grow or
24 fall and that such damage is costly to property owners. The
25 Legislature further finds that Florida's population growth over
26 the past half century has largely been located in neighborhoods
27 with residences located on small lots with trees and shrubs that
28 grow precariously close to property lines, with branches or
29 roots encroaching over and under structures on neighboring

33-00153A-25

2025724__

30 properties or hanging close enough to cause damage to such
31 properties should such trees or shrubs, or branches thereof,
32 fall.

33 (b) The Legislature finds that currently, under the
34 "Massachusetts Rule," Florida property owners are permitted to
35 use self-help to eliminate branches and roots that encroach over
36 their property line. However, owners of property located within
37 a zone of danger of a fallen tree or shrub growing on another's
38 property are not permitted to maintain or remove the vegetation
39 on another's property without that owner's permission.

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

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

51 (3) TREES OR SHRUBS, OR BRANCHES THEREOF; LIABILITY.—A
52 property owner on whose property a tree or shrub is located is
53 liable for any damages to neighboring properties caused by the
54 tree or shrub, or the branches thereof. For the purposes of this
55 section, the location where the tree or shrub is or was rooted
56 in the ground determines ownership of such tree or shrub and the
57 branches thereof.

58 (a) This section does not limit the ability of a property

33-00153A-25

2025724__

59 owner to use self-help to remove or sever the branches or roots
60 of a tree or a shrub that grows over, onto, or under their own
61 property.

62 (b) Trees and shrubs growing on two or more parcels may be
63 removed by any of the property owners after 30 days' written
64 notice has been provided to the other property owners through
65 certified mail and posting on a prominent location on the other
66 parcels.

67 (c) This section does not apply to a property owner of a
68 parcel that is greater than 5 acres in area in which a tree or a
69 shrub is located.

70 Section 2. This act shall take effect July 1, 2025.