

JAN 17 2008

A BILL FOR AN ACT

RELATING TO NUISANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **CIVIL LIABILITY FOR NUISANCE TREES**

6 § -1 **Definitions.** As used in this chapter:

7 "Actual damages" means direct, monetary out-of-pocket loss,
8 excluding noneconomic damages as defined in section 663-8.5 and
9 consequential damages.

10 "Endangered tree" means a tree that is listed as an
11 endangered species or threatened species by the United States
12 Fish and Wildlife Service.

13 "Exceptional tree" means a tree or stand or grove of trees
14 with historic or cultural value, or that by reason of age,
15 rarity, location, size, esthetic quality, or endemic status is
16 designated by a county arborist advisory committee as worthy of
17 preservation pursuant to chapter 58.



1 "Tree" means any object of natural growth.

2 § -2 **Recovery of damages.** (a) An owner of a tree shall
3 be civilly liable for actual damages caused by the tree,
4 including an overhanging branch or protruding root, to property
5 except for plant life; provided that the owner knows or should
6 have known that the tree constitutes a danger.

7 (b) An owner of a tree shall be civilly liable for the
8 cost incurred by an adjoining landowner to trim an overhanging
9 branch or protruding root of the tree if:

10 (1) There is imminent danger of the tree, including an
11 overhanging branch or protruding root, causing harm to
12 adjoining property except for plant life; and

13 (2) The owner of the tree, after notice, does not trim the
14 overhanging branch or protruding root within a
15 reasonable time.

16 (c) An overhanging branch that merely casts shade or drops
17 leaves, flowers, or fruit shall not be deemed to constitute a
18 danger or cause damage for purposes of this section.

19 (d) An adjoining landowner, at the adjoining landowner's
20 expense, at any time, may trim to the adjoining landowner's
21 property line, above or below the surface of the ground, any
22 part of an owner's tree.



1 (e) An action for recovery of damages under this section
2 may be brought in any court of competent jurisdiction, including
3 the small claims division of a district court.

4 § -3 **Exceptional and endangered trees.** Nothing in this
5 chapter shall be construed to apply to an exceptional tree or an
6 endangered tree."

7 SECTION 2. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun, before its effective date.

10 SECTION 3. This Act shall take effect upon its approval.

11

INTRODUCED BY: 
By Request



Report Title:

Nuisances; Trees

Description:

Codifies civil liability for nuisance trees.

