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# A BILL FOR AN ACT

RELATING TO NUISANCES.

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

1           SECTION 1. Chapter 663, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§663- Nuisance trees; civil liability. (a) As used in  
5 this section:

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

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

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

17           "(b) An owner of a tree shall be civilly liable for actual  
18 damages caused by the tree, including an overhanging branch or



1 protruding root, to property, except for plant life; provided  
2 that the owner knows or should have known that the tree  
3 constitutes a danger.

4 (c) An owner of a tree shall be civilly liable for the  
5 cost incurred by an adjoining landowner to trim an overhanging  
6 branch or protruding root of the tree if:

7 (1) There is an imminent danger that the tree, including  
8 an overhanging branch or protruding root, will cause  
9 harm to adjoining property, except for plant life; and

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

13 (d) Notwithstanding any law to the contrary, an  
14 overhanging branch that drops leaves, flowers, or fruit shall be  
15 deemed to constitute a danger or cause damage for purposes of  
16 this section.

17 (e) At any time and at the adjoining landowner's expense,  
18 an adjoining landowner may trim to the adjoining landowner's  
19 property line, above or below the surface of the ground, any  
20 part of an owner's tree.

21 (f) An adjoining landowner may request that protruding  
22 roots, fallen branches, leaves, flowers, or fruit upon the



1 adjoining landowner's property be removed by the owner of the  
2 tree that constitutes the danger or causes damage. If, after  
3 notice, the owner of the tree fails to take action to prevent  
4 the tree from constituting a danger or causing damage, the  
5 adjoining landowner may take such action and request  
6 reimbursement from the owner of the tree.

7 (g) An action:

8 (1) For recovery of damages under this section; or

9 (2) In the event of a dispute regarding reimbursement

10 under subsection (f),

11 may be brought in any court of competent jurisdiction, including

12 the small claims division of a district court.

13 (h) Nothing in this section shall be construed to apply to

14 an exceptional tree or an endangered tree.

15 (i) The department of health shall adopt rules in

16 accordance with chapter 91 to implement this section."

17 SECTION 2. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun, before its effective date.



# H.B. NO. 69

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on January 1, 2014.

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INTRODUCED BY:

*[Handwritten Signature]*

JAN 16 2013



# H.B. NO. 69

**Report Title:**

Nuisances; Trees

**Description:**

Codifies civil liability for nuisance trees.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

