


I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
47-35 (COR)	Joe S. San Agustin	AN ACT TO AMEND §§ 7.111 AND 7.112 OF ARTICLE 5; AND § 7.86(b)(2)(A) OF ARTICLE 4, ALL OF CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO EXPANDING THE "CASTLE DOCTRINE" JUSTIFICATION FOR ACTS OF SELF DEFENSE AND ELIMINATING THE REQUIREMENT OF RETREATING BEFORE THE USE OF FORCE IN THE FACE OF IMMINENT DANGER.	2/15/19 3:06 p.m.						

I MINA'TRENTAISINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 47-35 (COR)

Introduced by:

Joe S. San Agustin 

**AN ACT TO AMEND §§ 7.111 AND 7.112 OF ARTICLE 5;
AND § 7.86(b)(2)(A) OF ARTICLE 4, ALL OF CHAPTER
7, TITLE 9, GUAM CODE ANNOTATED; RELATIVE
TO EXPANDING THE “CASTLE DOCTRINE”
JUSTIFICATION FOR ACTS OF SELF DEFENSE AND
ELIMINATING THE REQUIREMENT OF
RETREATING BEFORE THE USE OF FORCE IN THE
FACE OF IMMINENT DANGER.**

2019 FEB 15 PM 3:06 Kc

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds

that the “Castle Doctrine,” which is a common law doctrine that a person is justified in using force in the defense of his castle, or as one might say in modern times, in using defensive force in home, workplace, or the vehicle, can be expanded to include justifying defensive force when a person is in reasonable fear of imminent death, serious felony and is in a place where he or she has a right to be in. Many states have enacted various forms of “Stand Your Ground” laws, with a variety of ways of allowing defendants or prospective defendant’s immunities, a variety of ways of allowing defensive force in different situations.

The extension of Stand Your Ground contained in this legislation allows a person to defend himself or herself using defensive force, not only when at home, workplace, or in a occupied vehicle, but also when the person is in place where he

1 or she has a right to be in. This could be when walking, at the beach, or in other
2 public or private places, where the victim or potential victim may lawfully be.

3 While the current “Castle Doctrine” does not require a person to retreat
4 before using defensive force, this extension of Stand Your Ground provisions
5 removes the requirement of retreating before using defensive force when a victim
6 or potential victim is outside of the “castle.”

7 **Section 2.** § 7.111 of Article 5, Chapter 7, Title 9, Guam Code Annotated,
8 is *amended* to read:

9 **“§ 7.111. Legislative Findings and Intent.**

10 *I Liheslaturan Guåhan* finds that it is proper for law-abiding people to
11 protect themselves, their families, and others from intruders and attackers
12 without fear of prosecution or civil action from acting in defense of
13 themselves and others.

14 *I Liheslaturan Guåhan* further finds that the “Castle Doctrine” is
15 common-law doctrine of ancient origins that declares that a person’s home is
16 his or her castle.

17 *I Liheslaturan Guåhan* further finds that persons residing or visiting
18 Guam have a right to remain safe.

19 *I Liheslaturan Guåhan* further finds that many states have also
20 adopted the “Stand Your Ground” Rule, which means that there is no
21 requirement for a person to first retreat before being able to act with force in
22 self-defense. This is an expansion of the “Castle Doctrine,” and enables a
23 person to be able to defend him or herself immediately, without fear of later
24 prosecution or civil liability for a split-second decision made while in
25 reasonable fear of danger.

26 *I Liheslaturan Guåhan* further finds that a person should not be
27 required to retreat in order to protect him or herself against death, serious

1 bodily harm kidnapping, rape, or sodomy compelled by force or threat,
2 whether these threats occur in at work, in the home, while in a vehicle, in a
3 location where that person has a right to be.

4 Therefore, it is the intent of *I Liheslaturan Guåhan* that no person or
5 victim of crime should be required to surrender his or her personal safety to
6 a criminal, whether at home, at work, in a vehicle, or where a person has a
7 right to be, nor should a person or victim be required to needlessly retreat in
8 the face of intrusion or attack.”

9 **Section 3.** § 7.112 of Article 5, Chapter 7 of Title 9, Guam Code
10 Annotated, is *amended* to read:

11 “§ 7.112. **Home Self Protection, used of Deadly Force,**
12 **Presumption of Fear of Death of Harm.**

13 (a) A person is presumed to have held a reasonable fear of
14 imminent peril or death or serious bodily injury to himself or herself or
15 another when using defensive force that is intended or likely to cause death
16 or serious bodily injury to another if:

17 (1) the person against whom the defensive force was used
18 was in the process of unlawfully and forcefully entering, or had
19 unlawfully or forcefully entered, a business, residence, or occupied
20 vehicle, or if that person had removed or was attempting to remove
21 another against that person’s will from the business, residence, or
22 occupied vehicle; and

23 (2) the person who uses defensive force knew or had reason
24 to believe that an unlawful and forcible act was occurring or had
25 occurred-; or

26 (3) the person who uses defensive force reasonably believes
27 such force is necessary to protect himself or herself against death,

1 serious bodily harm, kidnapping, rape, or sodomy compelled by force
2 or threat, and such person is in a location the he has the right to be.

3 (b) The presumption set forth in Subsection (a) does not apply if:

4 (1) the person against whom the defensive force is used has
5 the right to be in or is lawful resident of the business, residence, or
6 vehicle, such as an owner, lessee, or titleholder, or there is nor an
7 injunction for protection from domestic violence or a written pretrial
8 supervision order of no contract against that person; or

9 (2) the person who uses defensive force is engaged in a
10 criminal activity or is using the business, residence, or occupied
11 vehicle to further a criminal activity; or

12 (3) the person against whom defensive force is used is a
13 uniformed law enforcement officer who enters or attempts to enter a
14 habitable property, residence, or vehicle in the performance of his or
15 her official duties, and the officer identified himself or herself in
16 accordance with applicable law, or the person using force knew or
17 reasonable should have known that the person entering or attempting
18 to enter was a law enforcement officer.

19 (c) A person who unlawfully and by force enters or attempts to
20 enter a person's business, residence, or occupied vehicle is presumed to be
21 doing so with the intent to commit an unlawful act involving force or
22 violence.

23 (d) As used in this Section the terms:

24 (1) *habitable property* has the meaning provided by 9 GCA §
25 34.10. Habitable property, as used in this Section, ~~are~~ is limited to
26 business buildings, for which the victim has beneficial control and

1 use;-and, residences, vehicles, and house boats for which the victim
2 has legal right to occupy.

3 Habitable property, as used in this Section does not include
4 yards or outdoor spaces surrounding business buildings, residence,
5 vehicles or house boats. Nothing herein is construed to limit the right
6 of a victim to use defensive force in a manner consistent with Chapter
7 of Title 9, ~~GCA~~ Guam Code Annotated in areas outside of his home,
8 business, ~~car~~ vehicle, or houseboat.

9 (2) business means habitable property that is lawfully used to
10 conduct commercial activity by duly licensed corporations, LLC's,
11 partnerships or sole proprietorships.

12 (3) residence as used in this Chapter, means habitable
13 property in which a person resides, either temporarily or permanently,
14 or is visiting as an invited guest.

15 (4) vehicle is defined in § 1102 and § 1501 of Title 16, ~~GCA~~
16 Guam Code Annotated.

17 (5) defensive force has the same meaning as self-defense as
18 used in Chapter 7 of Title 9, ~~GCA~~ Guam Code Annotated, except that
19 a lawful occupant of habitable property, or a person who is in a place
20 the he has a right to be in, has no duty or obligation to retreat.”

21
22 **Section 4.** § 7.86(b)(2)(A) of Article 4, Chapter 7, Title 9, Guam
23 Code Annotated, is *amended* to read:

24 “(A) the defendant is not obliged to retreat from his dwelling,
25 place of work, ~~or~~ vehicle, or any other location where he has a right to
26 be unless he was the initial aggressor or is assailed in his place of

1 work by another person whose place of work the defendant knows it
2 to be; and”

3 **Section 5. Severability.** If any provision of this Act or its application to
4 any person or circumstance is found to be invalid or contrary to law, such
5 invalidity *shall not* affect other provisions or applications of this Act that can be
6 given effect without the invalid provision or application, and to this end the
7 provisions of this Act are severable.

8 **Section 7. Effective Date.** This Act *shall* become effective upon
9 enactment.