

I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN  
2013 (FIRST) Regular Session

Bill No. 146 (LS)

Introduced by:

V. Anthony Ada  
Brant T. McCreadie  
F. B. Aguon, Jr.

*F. B. Aguon, Jr.*

2013-11-19 PM 12:28

AN ACT ADD A NEW ARTICLE 3 TO CHAPTER 37 OF  
9GCA RELATIVE TO CASTLE DOCTRINE.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2  
3 **Section 1.** A new Article 3 is *added* to Chapter 37 of 9GCA to read as follows:

4  
5 " Article 3

6 **Castle Doctrine Act**

7  
8 **§37.301. Legislative Findings Intent.** *I Liheslaturan Guåhan* finds that it is proper  
9 for law-abiding people to protect themselves, their families, and others from intruders  
10 and attackers without fear of prosecution or civil action from acting in defense of the  
11 themselves and others; and

12 *I Liheslatura* further finds the "Castle Doctrine" is a common-law doctrine of  
13 ancient origins that declares that a person's home is his or her castle; and

14 *I Liheslatura* further finds the persons residing in or visiting Guam have a right  
15 to remain unmolested within their homes or vehicles; and

16 *It is the intent of I Liheslatura* that no person or victim of crime should be  
17 required to surrender his or her personal safety to a criminal, nor should a person or  
18 victim be required to needlessly retreat in the face of intrusion or attack.

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**§37.202. Home Protection, Use of Deadly Force, Presumption of Fear of Death or Harm**

(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:

(a) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully or forcefully entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and

(b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

(2) The presumption set forth in Subsection (1) does not apply if:

(a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or

1 (b) The person or persons sought to be removed is a child, grandchild, or is  
2 otherwise in the lawful custody or under the lawful guardianship of, the person  
3 against whom the defensive force is used; or  
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5 (c) The person who uses defensive force is engaged in a criminal activity or is  
6 using the dwelling, residence, or occupied vehicle to further a criminal activity;  
7 or  
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9 (d) The person against whom defensive force is used is a law enforcement  
10 officer, as defined in [insert appropriate reference to state/commonwealth code,  
11 which defines the term “law enforcement officer” or similar], who enters or  
12 attempts to enter a dwelling, residence, or vehicle in the performance of his or  
13 her official duties and the officer identified himself or herself in accordance with  
14 applicable law, or the person using force knew or reasonably should have known  
15 that the person entering or attempting to enter was a law enforcement officer.  
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17 (3) A person who is not engaged in an unlawful activity and who is attacked in any  
18 other place where he or she has a right to be has no duty to retreat and has the right to  
19 stand his or her ground and meet force with force, including deadly force if he or she  
20 reasonably believes it is necessary to do so to prevent death or great bodily harm to  
21 himself or herself or another, or to prevent the commission of a forcible felony.  
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23 (4) A person who unlawfully and by force enters or attempts to enter a person’s  
24 dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to  
25 commit an unlawful act involving force or violence.  
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27 (5) As used in this section, the term:  
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1 (a)“Dwelling” means a building or conveyance of any kind, including any  
2 attached porch, whether the building or conveyance is temporary or permanent,  
3 mobile or immobile, which has a roof over it, including a tent, and is designed to  
4 be occupied by people lodging therein at night.

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6 (b) “Residence” means a dwelling in which a person resides either temporarily  
7 or permanently or is visiting as an invited guest.

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9 (c) “Vehicle” means a conveyance of any kind, whether or not motorized, which  
10 is designed to transport people or property.

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12 **§37.303. Immunity from Criminal Prosecution and Civil Action**

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14 (1) As used in this subsection, the term “criminal prosecution” includes arresting,  
15 detaining in custody, and charging or prosecuting the defendant.

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17 (2) A person who uses force as permitted in §32302 of this Article is justified in using  
18 such force and is immune from criminal prosecution and civil action for the use of  
19 such force, except when:

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21 (a) The person against whom force was used is a law enforcement officer as  
22 defined by Public Law, who was acting in the performance of his or her duties  
23 and the officer identified himself or herself in accordance with applicable law;  
24 or

25  
26 (b) The person using force knew or reasonably should have known that the  
27 person was a law enforcement officer.  
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1 (3) A law enforcement agency may use standard procedures for investigating the use of  
2 force as described in subsection (2), but the agency may not arrest the person for using  
3 force unless it determines that there is probable cause that the force that was used was  
4 unlawful.

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6 (4)The court shall award reasonable attorney's fees, court costs, compensation for loss  
7 of income, and all expenses incurred by the defendant in defense of any civil action  
8 brought by a plaintiff if the court finds that the defendant is immune from prosecution  
9 as provided in subsection (2).

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11 **§37.304. Severability.** If any provision of this Act or its application to any person or  
12 circumstance is found to be invalid or contrary to law, such invalidity *shall* not affect  
13 other provisions or application of this Act which can be given effect without the  
14 invalid provisions or application, and to this end the provisions of this Act are  
15 severable."