

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2014 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 146-32 (COR), "AN ACT TO ADD NEW §§ 37.70, 37.71, 37.72 AND 37.73 TO CHAPTER 37 AND TO AMEND §7.86(b)(2)(A) OF CHAPTER 7 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO GRANTING IMMUNITY FROM CRIMINAL PROSECUTION OR CIVIL ACTION TO A PERSON WHO USES FORCE INTENDED OR LIKELY TO CAUSE DEATH OR SERIOUS BODILY INJURY ON SOMEONE WHO UNLAWFULLY OR FORCIBLY ENTERS A RESIDENCE, VEHICLE OR BUSINESS; TO BE KNOWN AS THE "CASTLE DOCTRINE ACT," was on the 1<sup>st</sup> day of February, 2014, duly and regularly passed.



Judith T. Won Pat, Ed.D.  
Speaker

Attested: 

Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 1<sup>st</sup> day of FEB,  
2014, at  
10:50 o'clock P..M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
EDWARD J.B. CALVO  
*I Maga'lahen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

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

**Bill No. 146-32 (COR)**

As amended by the Committee on U.S. Military Relocation,  
Homeland Security, Veteran's Affairs and Judiciary;  
and further amended on the Floor.

Introduced by:

V. Anthony Ada  
Brant T. McCreddie  
FRANK B. AGUON, JR.  
R. J. Respicio  
T. C. Ada  
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Chris M. Dueñas  
Michael T. Lintiacco  
Tommy Morrison  
T. R. Muña Barnes  
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Dennis G. Rodriguez, Jr.  
Michael F. Q. San Nicolas  
Aline A. Yamashita, Ph.D.  
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**AN ACT TO ADD NEW §§ 37.70, 37.71, 37.72 AND 37.73 TO CHAPTER 37 AND TO AMEND §7.86(b)(2)(A) OF CHAPTER 7 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO GRANTING IMMUNITY FROM CRIMINAL PROSECUTION OR CIVIL ACTION TO A PERSON WHO USES FORCE INTENDED OR LIKELY TO CAUSE DEATH OR SERIOUS BODILY INJURY ON SOMEONE WHO UNLAWFULLY OR FORCIBLY ENTERS A RESIDENCE, VEHICLE OR BUSINESS; TO BE KNOWN AS THE "CASTLE DOCTRINE ACT."**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1.** New §§ 37.70, 37.71, 37.72 and 37.73 are *added* to Chapter 37  
3 of Title 9, Guam Code Annotated, to read as follows:



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

4           (b) The presumption set forth in Subsection (a) *does not*  
5 apply if:

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

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

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

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

27           (d) As used in this Section, the term:

1           (1) *habitable property* has the meaning provided by  
2 §34.10. Habitable property, as used in this Section, are limited  
3 to business buildings, for which the victim has beneficial  
4 control and use; and residences, vehicles and house boats for  
5 which the victim has a legal right to occupy.

6           Habitable property, as used in this Section, *does not*  
7 include yards or outdoor spaces surrounding business buildings,  
8 residences, vehicles or house boats. Nothing herein is construed  
9 to limit the right of a victim to use defensive force in a manner  
10 consistent with Chapter 7 of Title 9, GCA in areas outside of  
11 his home, business, car or house boat.

12           (2) *business* means habitable property that is lawfully  
13 used to conduct commercial activity by duly licensed  
14 corporations, LLCs, partnerships or sole proprietorships.

15           (3) *residence* as used in this Chapter, means a  
16 habitable property in which a person resides, either temporarily  
17 or permanently, or is visiting as an invited guest.

18           (4) *vehicle* is defined in §1102 and §5101 of Title 16,  
19 GCA.

20           (5) *Defensive force* has the same meaning as *self*  
21 *defense* as used in Chapter 7 of Title 9, GCA, *except* that a  
22 lawful occupant of habitable property has *no* duty or obligation  
23 to retreat.

24           **§ 37.72. Immunity from Criminal Prosecution and Civil**  
25 **Action.**

1 (a) As used in this Section, the term *criminal prosecution*  
2 includes arresting, detaining in custody, and charging or prosecuting  
3 the defendant.

4 (b) A person who uses force as permitted in §37.71 is  
5 justified in using such force and is immune from criminal prosecution  
6 and civil action for the use of such force, *except* when:

7 (1) the person against whom force was used is a law  
8 enforcement officer, as defined by public law, who was acting  
9 in the performance of his or her duties, and the officer identified  
10 himself or herself in accordance with applicable law; or

11 (2) the person using force knew or reasonably should  
12 have known that the person was a law enforcement officer; or

13 (3) the use of force is found to be unlawful or was  
14 found to have been exercised with any illegal activity.

15 (c) A law enforcement agency *shall* use standard procedures  
16 for investigating the use of force as described in Subsection (b), but  
17 the agency may *not* arrest the person for using force *unless* it  
18 determines that there is probable cause that the force that was used  
19 was unlawful.

20 (d) The court *shall* award reasonable attorney's fees, court  
21 costs, compensation for loss of income, and all expenses incurred by  
22 the defendant in defense of any civil action brought by a plaintiff *if*  
23 the court finds that the defendant is immune from prosecution as  
24 provided in Subsection (b).

25 **§ 37.73. Severability.** *If* any provision of this Act or its  
26 application to any person or circumstance is found to be invalid or contrary  
27 to law, such invalidity *shall not* affect other provisions or application of this

1 Act which can be given effect without the invalid provisions or application,  
2 and to this end the provisions of this Act are severable.”

3 **Section 2.** Paragraph (A) of § 7.86(b)(2) of Article 4, Chapter 7 of Title 9,  
4 Guam Code Annotated, is *amended* to read as follows:

5 “(A) the defendant is *not* obliged to retreat from his dwelling, place  
6 of work or vehicle, *unless* he was the initial aggressor or is assailed in his  
7 place of work by another person whose place of work the defendant knows it  
8 to be; and”.