

I Mina'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
146-32 (LS)	V. A. Ada, Brant T. McCreadie, F.B. Aguon. Jr. R.J. Respicio	AN ACT ADD A NEW ARTICLE 3 TO CHAPTER 37 OF 9GCA RELATIVE TO CASTLE DOCTRINE.	6/19/13 12:28p.m.	6/19/13	Committee on the Guam U.S. Military Relocation, homeland Security, Veteran's Affairs, and Judiciary			



COMMITTEE ON RULES

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June 19, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 146-32(LS)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 146-32(LS)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

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

Bill No. 146 (28)

Introduced by:

V. Anthony Ada

Brant T. McCreadie

F. B. Aguon, Jr.

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

2013 JUN 19 PM 12:28
F. B. Aguon, Jr.

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

" Article 3

Castle Doctrine Act

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

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

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

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

1
2 **§37.202. Home Protection, Use of Deadly Force, Presumption of Fear of Death or**
3 **Harm**
4

5 (1) A person is presumed to have held a reasonable fear of imminent peril of death or
6 great bodily harm to himself or herself or another when using defensive force that is
7 intended or likely to cause death or great bodily harm to another if:
8

9 (a) The person against whom the defensive force was used was in the process of
10 unlawfully and forcefully entering, or had unlawfully or forcefully entered, a
11 dwelling, residence, or occupied vehicle, or if that person had removed or was
12 attempting to remove another against that person's will from the dwelling,
13 residence, or occupied vehicle; and
14

15 (b) The person who uses defensive force knew or had reason to believe that an
16 unlawful and forcible entry or unlawful and forcible act was occurring or had
17 occurred.
18

19 (2) The presumption set forth in Subsection (1) does not apply if:
20

21 (a) The person against whom the defensive force is used has the right to be in or
22 is a lawful resident of the dwelling residence, or vehicle, such as an owner,
23 lessee, or titleholder, and there is not an injunction for protection from domestic
24 violence or a written pretrial supervision order of no contact against that person;
25 or
26

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
4

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
8

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.
16

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.
22

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.
26

27 (5) As used in this section, the term:
28

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.

5
6 (b) “Residence” means a dwelling in which a person resides either temporarily
7 or permanently or is visiting as an invited guest.

8
9 (c) “Vehicle” means a conveyance of any kind, whether or not motorized, which
10 is designed to transport people or property.

11
12 **§37.303. Immunity from Criminal Prosecution and Civil Action**

13
14 (1) As used in this subsection, the term “criminal prosecution” includes arresting,
15 detaining in custody, and charging or prosecuting the defendant.

16
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:

20
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.

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.

5
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).

10
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."