

By Representative Crow

1 A bill to be entitled
2 An act relating to civil actions; amending s.
3 776.085, F.S.; prohibiting recovery for damages
4 by a person who, with criminal intent, has
5 entered another's property or committed a crime
6 against another's person or property; providing
7 exceptions; providing for nonapplicability of
8 specified provisions when the person committing
9 or attempting to commit the crime has "clearly
10 retreated," as defined, from the criminal
11 activity; providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Subsection (5) is added to section 776.085,
16 Florida Statutes, to read:

17 776.085 Defense to civil action for damages; party
18 convicted of forcible or attempted forcible felony.--

19 (5)(a) Any person who, with criminal intent, enters
20 the property of another or commits a crime against the person
21 or property of another may not recover any damages to his or
22 her person or property except as required by a court order of
23 restitution in a related criminal action, unless that person
24 can prove by clear and convincing evidence that:

25 1. His or her actions did not constitute a forcible
26 felony; and

27 2. His or her culpability was less than the person
28 from whom recovery is sought.

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1 This paragraph does not apply if the person committing or
2 attempting to commit the crime has clearly retreated from the
3 criminal activity.

4 (b) "Clearly retreated" means that the person
5 committing the criminal act has fully, clearly, and
6 immediately ceased all hostile, threatening, violent, or
7 criminal behavior or activity.

8 Section 2. This act shall take effect July 1, 1997.

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11 HOUSE SUMMARY

12 Provides for defense to civil action for damages
13 resulting from commission of crime, under certain
14 circumstances. Provides exceptions. Provides for
15 nonapplicability of the defense when the person
committing or attempting to commit the crime has "clearly
retreated," as defined, from the criminal activity.

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