

HB 4009

2013

A bill to be entitled

An act relating to the use of deadly force in defense of a person; repealing s. 776.013, F.S., relating to home protection and the use of deadly force, which created a presumption of fear of death or great bodily harm in certain circumstances and provided that there is no duty to retreat and has the right to stand one's ground and meet force with force in certain circumstances; amending ss. 776.012, 776.032, and 790.15, F.S.; conforming provisions; providing an effective date.

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

Section 1. Section 776.013, Florida Statutes, is repealed.

Section 2. Section 776.012, Florida Statutes, is amended to read:

776.012 Use of force in defense of person.—A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if:

~~(1)~~ he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony;~~or~~

29 ~~(2) Under those circumstances permitted pursuant to s.~~
 30 ~~776.013.~~

31 Section 3. Subsection (1) of section 776.032, Florida
 32 Statutes, is amended to read:

33 776.032 Immunity from criminal prosecution and civil
 34 action for justifiable use of force.—

35 (1) A person who uses force as permitted in s. 776.012,~~s.~~
 36 ~~776.013,~~ or s. 776.031 is justified in using such force and is
 37 immune from criminal prosecution and civil action for the use of
 38 such force, unless the person against whom force was used is a
 39 law enforcement officer, as defined in s. 943.10(14), who was
 40 acting in the performance of his or her official duties and the
 41 officer identified himself or herself in accordance with any
 42 applicable law or the person using force knew or reasonably
 43 should have known that the person was a law enforcement officer.
 44 As used in this subsection, the term "criminal prosecution"
 45 includes arresting, detaining in custody, and charging or
 46 prosecuting the defendant.

47 Section 4. Subsection (1) of section 790.15, Florida
 48 Statutes, is amended to read:

49 790.15 Discharging firearm in public or on residential
 50 property.—

51 (1) Except as provided in subsection (2) or subsection
 52 (3), any person who knowingly discharges a firearm in any public
 53 place or on the right-of-way of any paved public road, highway,
 54 or street, who knowingly discharges any firearm over the right-
 55 of-way of any paved public road, highway, or street or over any
 56 occupied premises, or who recklessly or negligently discharges a

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57 | firearm outdoors on any property used primarily as the site of a
58 | dwelling ~~as defined in s. 776.013~~ or zoned exclusively for
59 | residential use commits a misdemeanor of the first degree,
60 | punishable as provided in s. 775.082 or s. 775.083. This section
61 | does not apply to a person lawfully defending life or property
62 | or performing official duties requiring the discharge of a
63 | firearm or to a person discharging a firearm on public roads or
64 | properties expressly approved for hunting by the Fish and
65 | Wildlife Conservation Commission or Florida Forest Service. As
66 | used in this subsection, the term "dwelling" means a building or
67 | conveyance of any kind, including any attached porch, whether
68 | the building or conveyance is temporary or permanent, mobile or
69 | immobile, which has a roof over it, including a tent, and is
70 | designed to be occupied by people lodging therein at night.

71 | Section 5. This act shall take effect upon becoming a law.