

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES	
39-37 (COR) As amended on the Floor	William A. Parkinson	AN ACT TO <i>AMEND</i> SUBSECTION (d) OF § 7.112 AND TO <i>ADD</i> A NEW SUBSECTION (e) TO § 7.113, BOTH OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED; RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM'S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTLAGE OF ONE'S RESIDENCE; AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT'S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE "CASTLE DOCTRINE REFORM ACT OF 2023."	2/13/23 3:43 p.m.	2/16/23 8:00 a.m.	Committee on Health, Land, Justice, and Culture	Request: 2/16/23 Waiver: 2/20/23				
			SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	LAPSED	NOTES
			6/24/24	AN ACT TO <i>AMEND</i> § 7.112(d), AND ADD NEW §§ 7.112(a)(3) AND 7.113(e), ALL OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM'S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTLAGE OF ONE'S RESIDENCE, AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT'S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE "CASTLE DOCTRINE REFORM ACT OF 2024."	7/10/24	7/10/24	7/22/24	37-122	7/22/24	Received: 7/22/24 Messages and Communications Doc. No. 37GL-24-2395

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via Email to: speaker@guamlegislature.org

July 22, 2024

THE HON. THERESE M. TERLAJE, *Speaker*
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Doc Type: 37GL-24-2395
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

JUL 22 2024

Time: 6:40 pm
Received: [Signature]

Re: Bill No. 39-37 (COR) – AN ACT TO AMEND § 7.112(d), AND ADD NEW §§ 7.112(a)(3) AND 7.113(e), ALL OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM'S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTILAGE OF ONE'S RESIDENCE, AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT'S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE 'CASTLE DOCTRINE REFORM ACT OF 2024'.

Håfa Adai Madam Speaker,

Bill No. 39-37 seeks to amend Guam's Castle Doctrine Act, codified at Article 5, Chapter 7, Title 9, Guam Code Annotated to extend the application of the Act to the curtilage of a residence. While proponents of the castle doctrine have, over time, successfully advocated for expanded protections under the doctrine, I am concerned Bill No. 39-37 may be a bridge too far for our island, especially because it was passed without the benefit of a public hearing.

For centuries, the Castle Doctrine applied only to events inside the home of a person. The doctrine provided that homeowners were not required to retreat from a threat inside their home, and the danger to life or safety was presumed since the intruder was violating the sanctity of the home.

Bill No. 39-37 extends the Castle Doctrine to yards, driveways and other open ground that constitute the curtilage of the home. It creates a rebuttable presumption that a person is acting in reasonable fear of imminent peril of death or serious bodily injury allowing them to use deadly force when another person unlawfully enters these areas. This would mean the act of crossing private property without permission would create a rebuttable presumption that a resident may use lethal force against that person, even if the person entering the curtilage takes no other action toward the resident.



To: The Hon. Therese M. Terlaje, Speaker
Fr: The Hon. Lourdes A. Leon Guerrero, Governor of Guam
Date: July 22, 2024
Re: Bill No. 39-37 (COR)

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While there are certainly circumstances wherein a person approaching the curtilage of a home may pose a threat to the persons residing in the home, on Guam, there are numerous commonplace instances wherein a person would enter a home's curtilage without posing a threat – neighbors, hikers, religious visitors, or even young children running after stray balls. Though the doctrine's presumption may be overcome, I am concerned that attachment of such a presumption in the first place does not adequately account for our cultural norms and practices, and would place many members of our community at risk for common, innocent circumstances that may lead them to visit another person's land.

The procedural provisions of Bill No. 39-37 also do not adequately define the standard of proof a defendant must meet to establish a prima facie claim of self-defense under the Act, which would potentially lead to lack of uniformity in the application of the Act, an issue that could have been resolved if the bill had provided the necessary standard.

Ultimately, even if the procedural defects of Bill No. 39-37 were resolved, because the bill creates such a significant departure from existing law, I believe the bill would have benefitted from substantial public input. In the absence of such input, I decline to sign the bill into law. Bill No. 39-37 will instead lapse into law without my signature as **Public Law 37-122**.

Senseramente,



LOURDES A. LEON GUERRERO

I Maga'hågan Guåhan

Governor of Guam

Enclosure(s): Bill No. 39-37 (COR) nka P.L. 37-122 (LAPSED)

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 39-37 (COR)**, “AN ACT TO *AMEND* § 7.112(d), AND *ADD* NEW §§ 7.112(a)(3) AND 7.113(e), ALL OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM’S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTILAGE OF ONE’S RESIDENCE, AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT’S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE ‘CASTLE DOCTRINE REFORM ACT OF 2024’,” was on the 10th day of July 2024, duly and regularly passed.




Therese M. Terlaje
Speaker

Attested:



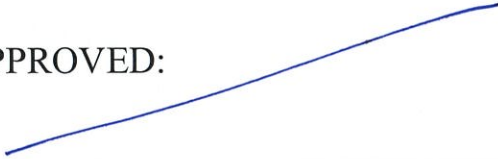
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 10th day of July, 2024, at 4:22 o'clock pm.M.



Evelyn C. Fejeran
Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: JULY 22, 2024

Public Law No. 37-122

8024-21941

OFFICE OF THE GOVERNOR	
CENTRAL FILES OFFICE	
Rec'd By:	Evelyn Fejeran
Date:	7/10/24 Time: 4:22pm

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 39-37 (COR)

As amended on the Floor.

Introduced by:

William A. Parkinson
Chris Barnett
Frank Blas, Jr.
Joanne M. Brown
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Tina Rose Muña Barnes
Roy A. B. Quinata
Joe S. San Agustin
Dwayne T.D. San Nicolas
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje

AN ACT TO *AMEND* § 7.112(d), AND *ADD* NEW §§ 7.112(a)(3) AND 7.113(e), ALL OF ARTICLE 5, CHAPTER 7, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO BETTER EFFECTUATING THE INTENT OF GUAM'S CASTLE DOCTRINE ACT BY ELIMINATING THE DUTY TO RETREAT FROM THE CURTILAGE OF ONE'S RESIDENCE, AND TO ENHANCING JUDICIAL ECONOMY BY ADOPTING A PRETRIAL HEARING TO DETERMINE A DEFENDANT'S IMMUNITY FROM CRIMINAL PROSECUTION; AND TO CITE THIS ACT AS THE "CASTLE DOCTRINE REFORM ACT OF 2024."

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

2 **Section 1. Short Title.** This Act may be cited as the "*Castle Doctrine*
3 *Reform Act of 2024.*"

1 **Section 2.** A new Subsection (a)(3) is hereby *added* to § 7.112 of Article 5,
2 Chapter 7, Title 9, Guam Code Annotated, to read as follows:

3 “(3) Provided that the property is enclosed or reasonable notice is placed
4 upon the boundaries of the curtilage, that the property or residence is a no trespassing
5 zone.”

6 **Section 3.** Subsection (d) of § 7.112 of Article 5, Chapter 7, Title 9, Guam
7 Code Annotated, is hereby *amended* to read as follows:

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

9 (1) *Habitable Property* has the meaning provided by § 34.10.
10 Habitable property are limited to business buildings for which the
11 victim has beneficial control and use; and residences, vehicles and
12 house boats for which the victim has a legal right to occupy.

13 Except when used in reference to a residence, habitable property
14 does not include yards or surrounding outdoor spaces. Nothing herein
15 is construed to limit the right of a victim to use defensive force in a
16 manner consistent with Chapter 7 of Title 9, GCA in areas outside of
17 his/her home, business, car or house boat;

18 (2) *Business* means habitable property that is lawfully used to
19 conduct commercial activity by duly licensed corporations, LLCs,
20 partnerships or sole proprietorships;

21 (3) *Residence* means a habitable property, to include the
22 curtilage of the residence, in which a person resides, either temporarily
23 or permanently, or is visiting as an invited guest, or any building or
24 other appurtenance within the curtilage of the residence such as an
25 outdoor kitchen or bathroom;

26 (4) *Vehicle* is defined in § 1102 and § 5101 of Title 16, GCA;

1 (5) *Curtilage* means the area immediately surrounding a
2 residence that is necessary, convenient and habitually used for family
3 purposes and for those activities associated with the sanctity of a
4 person's home;

5 (6) *Defensive Force* has the same meaning as self-defense as
6 used in Chapter 7 of Title 9, GCA, except that a lawful occupant of
7 habitable property has no duty or obligation to retreat.”

8 **Section 4.** A new Subsection (e) is *added* to § 7.113 of Article 5, Chapter 7,
9 Title 9, Guam Code Annotated, to read as follows:

10 “(e) In a criminal prosecution, once a prima facie claim of self-defense
11 immunity from criminal prosecution has been raised by the defendant at a pretrial
12 immunity hearing, the burden of proof by clear and convincing evidence is on the
13 party seeking to overcome the immunity from criminal prosecution provided in
14 Subsection (b) of this Section.”

15 **Section 5. Effective Date.** This Act shall be effective upon enactment.

16 **Section 6. Severability.** If any provision of this Act or its application to any
17 person or circumstance is found to be invalid or inorganic, such invalidity shall not
18 affect other provisions or applications of this Act that can be given effect without
19 the invalid provision or application, and to this end the provisions of this Act are
20 severable.