



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5681

Introduced 2/16/2012, by Rep. Richard Morthland

SYNOPSIS AS INTRODUCED:

New Act

Creates the Armed Citizen Liability Act. Provides that a person is immune from civil liability arising out of the use of force that is intended or likely to cause death or great bodily harm if (i) the person reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person and (ii) the person against whom the force was used either was in the process of unlawfully and forcibly entering, or was inside after unlawfully and forcibly entering, the dwelling, motor vehicle, or place of business of the person using the force. In such a case, provides that the finder of fact may not consider whether the person using the force had an opportunity to flee or retreat before he or she used the force, and provides that, with exceptions, the person using the force is presumed to have reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person. Provides for an award of reasonable attorney's fees, costs, compensation for loss of income, and other costs reasonably incurred to a person using such force. Provides that nothing in the Act limits any other available defense. Provides that the Act applies to a use of force that occurs on or after the effective date of the Act.

LRB097 18200 AJ0 63424 b

1 AN ACT concerning armed citizen liability.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Armed
5 Citizen Liability Act.

6 Section 5. Definitions. In this Act:

7 "Dwelling" means any premises or portion of a premises that
8 is used as a home or a place of residence and that part of the
9 lot or site on which the dwelling is situated that is devoted
10 to residential use. "Dwelling" includes other existing
11 structures on the immediate residential premises such as
12 driveways, sidewalks, swimming pools, terraces, patios,
13 fences, porches, garages, and basements.

14 "Place of business" means a commercial or retail enterprise
15 that a person owns or operates.

16 "Public safety worker" means a person employed by this
17 State or a political subdivision thereof that provides
18 firefighting, law enforcement, medical, or other emergency
19 services.

20 Section 10. Use of force in response to unlawful and
21 forcible entry; civil liability immunity.

22 (a) Except as provided in subsection (d), a person is

1 immune from civil liability arising out of his or her use of
2 force that is intended or likely to cause death or great bodily
3 harm if (i) the person reasonably believed that the force was
4 necessary to prevent imminent death or bodily harm to himself
5 or herself or to another person and (ii) either of the
6 following applies:

7 (1) The person against whom the force was used was in
8 the process of unlawfully and forcibly entering the
9 dwelling, motor vehicle, or place of business of the person
10 using the force; the person using the force was on his or
11 her property or present in his or her dwelling, motor
12 vehicle, or place of business; and the person using the
13 force knew or had reason to believe that an unlawful and
14 forcible entry was occurring.

15 (2) The person against whom the force was used was
16 inside the dwelling, motor vehicle, or place of business of
17 the person using the force after unlawfully and forcibly
18 entering it; the person using the force was present in his
19 or her dwelling, motor vehicle, or place of business; and
20 the person using the force knew or had reason to believe
21 that the person against whom the force was used had
22 unlawfully and forcibly entered his or her dwelling, motor
23 vehicle, or place of business.

24 (b) If paragraph (1) or (2) of subsection (a) applies, the
25 finder of fact may not consider whether the person using the
26 force had an opportunity to flee or retreat before he or she

1 used the force.

2 (c) If paragraph (1) or (2) of subsection (a) applies,
3 then, except as provided in subsection (d), the person using
4 the force is presumed to have reasonably believed that the
5 force was necessary to prevent imminent death or bodily harm to
6 himself or herself or to another person.

7 (d) The immunity provided in subsection (a), and the
8 presumption described in subsection (c), do not apply if the
9 finder of fact finds that either of the following is true:

10 (1) The person using the force was engaged in a
11 criminal activity or was using his or her dwelling, motor
12 vehicle, or place of business to further a criminal
13 activity at the time he or she used the force described in
14 subsection (a).

15 (2) The person against whom the force was used was a
16 public safety worker who entered or attempted to enter the
17 dwelling, motor vehicle, or place of business of the person
18 using the force in the performance of his or her official
19 duties. This paragraph (2) applies only if at least one of
20 the following applies:

21 (A) The public safety worker identified himself or
22 herself to the person using the force before that
23 person used the force described in subsection (a).

24 (B) The person using the force knew or reasonably
25 should have known that the person entering or
26 attempting to enter his or her dwelling, motor vehicle,

1 or place of business was a public safety worker.

2 (e) In any civil action arising out of a person's use of
3 force described in subsection (a), if the court finds that the
4 person is immune from civil liability under subsection (a), the
5 court shall award the person reasonable attorney's fees, costs,
6 compensation for loss of income, and other costs of the
7 litigation reasonably incurred by the person.

8 Section 15. Other defense. Nothing in this Act may be
9 construed to limit or impair any defense to civil or criminal
10 liability otherwise available.

11 Section 20. Applicability. This Act applies to a use of
12 force that occurs on or after the effective date of this Act.