

HB 4017

2016

1                                   A bill to be entitled  
 2           An act relating to the use of deadly force in defense  
 3           of a person; repealing s. 776.013, F.S., relating to  
 4           home protection and the use of deadly force, which  
 5           created a presumption of fear of death or great bodily  
 6           harm in certain circumstances and provided that a  
 7           person has no duty to retreat and has the right to  
 8           stand his or her ground and meet force with force in  
 9           certain circumstances; amending ss. 776.012, 776.032,  
 10          and 790.15, F.S.; conforming provisions; providing an  
 11          effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

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 Section 776.013, Florida Statutes, is repealed.

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

18           776.012 Use or threatened use of force in defense of  
 19 person.—

20           (1) A person is justified in using or threatening to use  
 21 force, except deadly force, against another when and to the  
 22 extent that the person reasonably believes that such conduct is  
 23 necessary to defend himself or herself or another against the  
 24 other's imminent use of unlawful force. ~~A person who uses or~~  
 25 ~~threatens to use force in accordance with this subsection does~~  
 26 ~~not have a duty to retreat before using or threatening to use~~

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27 ~~such force.~~

28 (2) A person is justified in using or threatening to use  
 29 deadly force if he or she reasonably believes that using or  
 30 threatening to use such force is necessary to prevent imminent  
 31 death or great bodily harm to himself or herself or another or  
 32 to prevent the imminent commission of a forcible felony. ~~A~~  
 33 ~~person who uses or threatens to use deadly force in accordance~~  
 34 ~~with this subsection does not have a duty to retreat and has the~~  
 35 ~~right to stand his or her ground if the person using or~~  
 36 ~~threatening to use the deadly force is not engaged in a criminal~~  
 37 ~~activity and is in a place where he or she has a right to be.~~

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

40 776.032 Immunity from criminal prosecution and civil  
 41 action for justifiable use or threatened use of force.—

42 (1) A person who uses or threatens to use force as  
 43 permitted in s. 776.012, ~~s. 776.013,~~ or s. 776.031 is justified  
 44 in such conduct and is immune from criminal prosecution and  
 45 civil action for the use or threatened use of such force by the  
 46 person, personal representative, or heirs of the person against  
 47 whom the force was used or threatened, unless the person against  
 48 whom force was used or threatened is a law enforcement officer,  
 49 as defined in s. 943.10(14), who was acting in the performance  
 50 of his or her official duties and the officer identified himself  
 51 or herself in accordance with any applicable law or the person  
 52 using or threatening to use force knew or reasonably should have

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53 | known that the person was a law enforcement officer. As used in  
54 | this subsection, the term "criminal prosecution" includes  
55 | arresting, detaining in custody, and charging or prosecuting the  
56 | defendant.

57 | Section 4. Subsection (1) of section 790.15, Florida  
58 | Statutes, is amended to read:

59 | 790.15 Discharging firearm in public or on residential  
60 | property.—

61 | (1) Except as provided in subsection (2) or subsection  
62 | (3), any person who knowingly discharges a firearm in any public  
63 | place or on the right-of-way of any paved public road, highway,  
64 | or street, who knowingly discharges any firearm over the right-  
65 | of-way of any paved public road, highway, or street or over any  
66 | occupied premises, or who recklessly or negligently discharges a  
67 | firearm outdoors on any property used primarily as the site of a  
68 | dwelling ~~as defined in s. 776.013~~ or zoned exclusively for  
69 | residential use commits a misdemeanor of the first degree,  
70 | punishable as provided in s. 775.082 or s. 775.083. This section  
71 | does not apply to a person lawfully defending life or property  
72 | or performing official duties requiring the discharge of a  
73 | firearm or to a person discharging a firearm on public roads or  
74 | properties expressly approved for hunting by the Fish and  
75 | Wildlife Conservation Commission or Florida Forest Service. As  
76 | used in this subsection, the term "dwelling" means a building or  
77 | conveyance of any kind, including any attached porch, whether  
78 | the building or conveyance is temporary or permanent, mobile or

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79 | immobile, which has a roof over it, including a tent, and is  
80 | designed to be occupied by people lodging therein at night.

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