

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

4 By: Representative Calhoun

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For An Act To Be Entitled

8 "AN ACT TO FURTHER DEFINE WHEN THE USE OF PHYSICAL FORCE
9 OR DEADLY PHYSICAL FORCE IS JUSTIFIED TO PROTECT PROPERTY;
10 AND FOR OTHER PURPOSES."

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Subtitle

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. (a) A person in lawful possession of real property or
20 tangible, movable property is justified in using physical force other than
21 deadly physical force against another when and to the degree the actor
22 reasonably believes the physical force is immediately necessary to prevent or
23 terminate the other_s trespass on the land or unlawful interference with the
24 property.

25 (b) A person unlawfully dispossessed of real property or tangible,
26 movable property by another is justified in using physical force other than
27 deadly physical force against the other when and to the degree the actor
28 reasonably believes the physical force is immediately necessary to reenter
29 the real property or recover the tangible, movable property if the actor uses
30 the force immediately or in fresh pursuit after the dispossession and:

31 (1) the actor reasonably believes the other had no claim of
32 right when he dispossessed the actor; or

33 (2) the other accomplished the dispossession by using physical
34 force, threat, or fraud against the actor.

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1 SECTION 2. A person is justified in using deadly physical force
2 against another to protect real property or tangible, movable property:

3 (1) if he would be justified in using physical force against the other
4 under Section 1 of this act; and

5 (2) when and to the degree he reasonably believes the deadly physical
6 *force is immediately necessary to prevent the other's imminent commission of*
7 *arson, residential or commercial burglary, robbery, aggravated robbery or*
8 *theft during the nighttime; and*

9 (3) *he reasonably believes that the use of physical force other than*
10 *deadly physical force to protect or recover the real property or tangible,*
11 *movable property would expose the actor or another to a substantial risk of*
12 *death or serious bodily injury.*

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14 SECTION 3. This act shall be supplemental to all laws regarding the
15 defense of justification as defined in Title 5, Chapter 2, Subchapter 6 of
16 the Arkansas Code of 1987 Annotated.

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18 SECTION 4. All provisions of this act of a general and permanent
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
20 Code Revision Commission shall incorporate the same in the Code.

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22 SECTION 5. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 6. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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/s/Rep. Calhoun

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