**South Carolina General Assembly**

119th Session, 2011-2012

**H. 5072**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sellers, Anderson and Allen

Document Path: l:\council\bills\ms\7739ahb12.docx

Companion/Similar bill(s): 1415

Introduced in the House on March 22, 2012

Currently residing in the House Committee on **Judiciary**

Summary: Use of deadly force

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/22/2012 House Introduced and read first time ([House Journal‑page 10](file:///h:\hj%20archive\2012\03-22-12.docx))

3/22/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 10](file:///h:\hj%20archive\2012\03-22-12.docx))

4/18/2012 House Member(s) request name added as sponsor: Anderson

4/19/2012 House Member(s) request name added as sponsor: Allen

**VERSIONS OF THIS BILL**

[3/22/2012](file:///p:\pprever\2011-12\5072_20120322.docx)

**A** **BILL**

TO AMEND SECTION 16-11-440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE USE OF DEADLY FORCE AGAINST ANOTHER PERSON WHO UNLAWFULLY ENTERS A RESIDENCE, OCCUPIED VEHICLE, OR PLACE OF BUSINESS, SO AS TO DELETE THE REFERENCE TO THE AUTHORIZED USE OF DEADLY FORCE IN A PERSON’S PLACE OF BUSINESS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16-11-440 of the 1976 Code, as added by Act 379 of 2006, is amended to read:

“Section 16-11-440. (A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

(2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used; or

(3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement officer.

(C) ~~A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16‑1‑60.~~

~~(D)~~ A person who unlawfully and by force enters or attempts to enter a person’s dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16‑1‑60.

~~(E)~~(D) A person who by force enters or attempts to enter a dwelling, residence, or occupied vehicle in violation of an order of protection, restraining order, or condition of bond is presumed to be doing so with the intent to commit an unlawful act regardless of whether the person is a resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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