

Representative Mike Thompson proposes the following substitute bill:

**USE OF FORCE, INCLUDING DEADLY
FORCE, IN DEFENSE OF PROPERTY**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

This act modifies the Criminal Code to allow use of deadly force in defense of persons on real property. The act provides the elements of situations when deadly force is justified.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

76-2-407, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-2-407** is enacted to read:

76-2-407. Deadly force in defense of persons on real property.

(1) A person is justified in using force intended or likely to cause death or serious bodily injury against another in his defense of **PERSONS ON** real property other than his habitation if:

(a) he is in lawful possession of the real property;

(b) he reasonably believes that the force is necessary to prevent or terminate the other person's trespass onto the real property;

(c) the trespass is made or attempted by use of force or in a violent and tumultuous manner **[, surreptitiously, or by stealth]** ; and

(d) (i) the person reasonably believes that the trespass is attempted or made for the purpose of **[assaulting or]** committing violence against any person on the real property and he reasonably believes that the force is necessary to prevent **[the assault or offer of]** personal violence; or

(ii) the person reasonably believes that the trespass is made or attempted for the purpose of committing a forcible felony as defined in Section 76-2-402 that poses imminent peril of death



26 or serious bodily injury to a person on the real property and that the force is necessary to prevent
27 the commission of that forcible felony.

28 (2) The person using deadly force in defense of persons on real property under Subsection
29 (1) is presumed for the purpose of both civil and criminal cases to have acted reasonably and had
30 a reasonable fear of imminent peril of death or serious bodily injury if the trespass or attempted
31 trespass is unlawful and is made or attempted by use of force, or in a violent and tumultuous
32 manner ~~h [, or surreptitiously or by stealth] h~~ , or for the purpose of committing a forcible felony.