

ACT 97

S.B. NO. 532

A Bill for an Act Relating to Limiting Civil Liability.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- Owner to felon; limited liability. (a) An owner, including but not limited to a public entity, of any estate or any other interest in real property, whether possessory or nonpossessory, or any agent of the owner lawfully on the premises by consent of the owner, shall not be liable to any perpetrator engaged in any of the felonies set forth in subsection (b) for any injury or death to the perpetrator that occurs upon that property during the course of or after the commission of such felony, or when a reasonable person would believe that commission of a felony as set forth in subsection (b) is imminent; provided that if the perpetrator is injured, the perpetrator is charged with the criminal offense and convicted of the criminal offense or of a lesser included felony or misdemeanor.

(b) This section applies to the following felonies:

- (1) Murder in the first or second degree;
- (2) Attempted murder in the first or second degree;
- (3) Any class A felony as provided in the Hawaii Penal Code, including any attempt or conspiracy to commit a crime classified as a class A felony;
- (4) Any class B felony involving violence or physical harm as provided in the Hawaii Penal Code;
- (5) Any felony punishable by imprisonment for life;
- (6) Any other felony in which the person inflicts serious bodily injury on another person; and
- (7) Any felony in which the person personally used a firearm or a dangerous or deadly weapon.

(c) The limitation on liability under this section arises:

- (1) At the moment the perpetrator commences the felony to which this section applies; or
- (2) At the moment the owner or agent of the owner lawfully on the premises by consent of the owner believes that a commission of a felony under subsection (b) is imminent;

and extends to the moment the perpetrator is no longer upon the property.

(d) The limitation on liability under this section applies only when the perpetrator's conduct in furtherance of the commission of a felony specified in subsection (b) proximately or legally causes the injury or death.

(e) This section does not limit the liability of an owner that otherwise exists for:

- (1) Wilful, wanton, or criminal conduct; or
- (2) Wilful or malicious failure to guard or warn against a dangerous condition, use, or structure; or
- (3) Injury or death caused to individuals other than the perpetrator of the felony.

(f) Except with regard to paragraphs (e)(1) and (e)(3), the limitation of liability under this section shall not be affected by the failure of the owner to warn the perpetrator of the felony that the owner is armed and ready to cause bodily harm or death.

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(g) For purposes of this section, “owner” means the owner, the occupant, tenant, or anyone authorized to be on the property by the owner or the occupant, including a guest or a family or household member, employee, or agent of the owner lawfully on the premises.

(h) The limitation on liability provided by this section shall be in addition to any other available defense.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon approval.

(Approved May 12, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.