

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**  
**Revised**

Senate Bill 742 (Senator Haines)  
Judicial Proceedings

Judiciary

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**Homicide - Use of Deadly Force in a Business Establishment - Defense**

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This bill creates a statutory presumption for civil liability purposes that a person who uses deadly force or “force likely to cause death” in the person’s business establishment holds a reasonable fear of imminent peril of death or serious physical injury to the person or an employee of the business establishment, if the force is used against another who unlawfully and forcibly enters or has entered the person’s business establishment. The presumption applies to an owner, lessor, or supervisory employee. Such a person is not civilly liable for any act arising from the use of deadly force or force likely to cause death in protecting or attempting to protect the person or an employee of the person’s business establishment.

The bill is to be applied retroactively to any action occurring on or after January 1, 2001.

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**Fiscal Summary**

**State Effect:** This bill is procedural in nature and is not expected to materially affect governmental finances.

**Local Effect:** None -- see above.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** Under Maryland law, use of deadly force is permissible only when reasonably necessary to protect oneself from imminent threat of death or serious injury,

even in resistance of a robbery, burglary, or other assault or felony. *Sydnor v. State*, 365 Md. 205 (2001), *certiorari denied*, 2002 U.S. Lexis 389 (2002). A person has a duty, if safely possible: (1) to avoid danger; and (2) except for within one's own home, to retreat. *Id.* Use of deadly force traditionally has not been permissible in defense of property alone.

**Additional Comments:** HB 606 of 2002 is similar to this bill.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced in the 2001 session as SB 901 and its cross-file HB 1462. SB 901 passed the Senate with amendments but was not reported out of the House Rules and Executive Nominations Committee. HB 1462 was referred to the Judiciary Committee but no further action was taken.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2002  
mam/cer Revised - Senate Third Reader - March 26, 2002

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