

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. 8460



Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

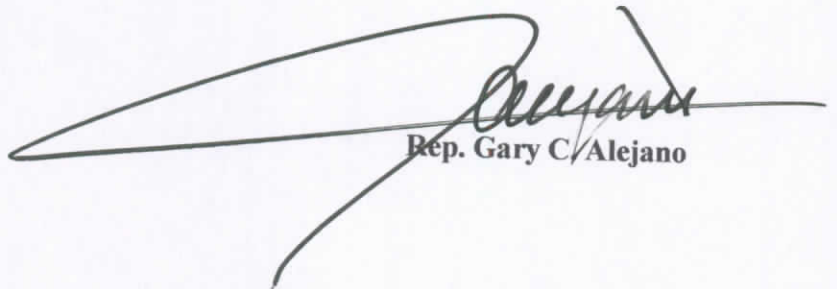
EXPLANATORY NOTE

In the United States and some other countries, home invasion is the illegal and usually forceful entry to an occupied, private dwelling with intent to commit a violent crime against the occupants, such as robbery, assault, rape, murder, or kidnapping.

Home invasion occurs when intruders force their way into an occupied residence with the intent of using force or the threat of it against the occupants, which may proceed with the commission of a criminal act. It is different from burglary in that its perpetrators have a violent intent apart from the unlawful entry itself, specific or general, much the same way as aggravated robbery—personally taking from someone by force—is differentiated from mere larceny. Home invaders specifically target the residents more than the actual domicile and relies on the deliberate use of force during confrontation to achieve their sinister objectives.

The home being a place considered by civilized people as their inviolable sanctuary requires that it be protected from those who would dare trample on it. State principles, however, provides only that it is responsible only for the general order and public safety. Home safety therefore falls into the responsibility of individual homeowners and the Congress, through this legislation, hopes to empower them by defining the crime of home invasion and providing for the lawful justification in using force in deterring thereof.

In view of the foregoing, approval of this measure is earnestly sought.



Rep. Gary C. Alejano

1 The State further recognizes the right of the individual citizen to protect the privacy of his
2 home, his person, his family, and his property from harm as an essential aspect of his inalienable
3 human right, including the wherewithal and the ability to do so with whatever essential means
4 possible and when circumstances so warrant. To ensure that life and property of each and every
5 citizen is protected, it becomes the fundamental duty of the State to guarantee full respect not only
6 for the human rights of its citizens, but just as importantly, their ability to protect and serve such
7 rights.

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9 It is thereby declared to be a national policy not only to uphold the right of its citizens to
10 own and possess firearms for the protection of their human rights, the conveyance of the same when
11 the need arises or the environment so require but likewise its lawful use when circumstances so
12 warrant.

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14 **SEC. 3. Definition of Terms.**—For purposes of this Act, the following terms shall mean and
15 be interpreted as hereunder defined:

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17 **Firearm** as in herein used, includes rifles, shotguns, revolvers, pistols, or any device
18 to be used as a weapon from which a projectile is expelled by the force of any explosion or
19 other forms of combustion.

20
21 **Residence or dwelling place** refers to a home, apartment, condominium unit, hotel
22 room or ship's cabin used by its legal owners or authorized occupants as a place of
23 residence either permanently or for a contracted period of time;

24
25 **Resident or homeowner** refers to the legal occupant, the members of said legal
26 occupant's household including household helpers domiciled in said residence, as well as
27 guests staying in the residence or dwelling place upon the invitation or with the express
28 permission of the homeowner or the members of the homeowner's family.

29
30 **Justified, legally justified, lawfully justified, or justifying circumstances** when
31 the act of the person is said to be in accordance with law, so that such person is deemed not
32 to have transgressed the law and is free from both criminal and civil liability.
33

Unauthorized entry is the illegal ingress or trespass of a person or persons, forcible or otherwise, armed or unarmed into the residence of another without the express permission of the legal resident thereof.

ARTICLE II

DEFINING AND PENALIZING THE CRIME OF HOME INVASION

SEC. 4. *Defining the Crime of Home Invasion.*—Any person who enters the residence or dwelling place of another without the express permission or authority from the legal resident thereof, with the full knowledge or reason to believe that one or more persons are present in the said residence or dwelling place; or enters the residence or dwelling place of another in the absence of any person in the said residence or dwelling place, without the express permission of or authority from the legal resident thereof are present; and:

- a. uses force or threatens the use of force upon any person or persons within such residence or dwelling, regardless of whether or not actual injury occurs, or
- b. causes any injury by any means to any person or persons within such residence or dwelling place.

SEC. 5. Imposition of Statutory Penalties.—The penalty of *prision mayor* shall be imposed upon any person or persons who is found guilty of the crime of home invasion. The maximum penalty of *reclusion temporal* shall be imposed upon any person or persons who committed the crime of home invasion armed with a deadly weapon, regardless of whether or not said weapon was brought into the residence or dwelling place.

Should on the occasion of the commission of the crime of home invasion, either death or rape result to the resident or any person or persons domiciled in such residence or dwelling place, the penalty of *reclusion perpetua* shall be imposed on the perpetrators of the crime of home invasion. Should on the occasion of the commission of the crime of home invasion, serious physical injuries result to the resident or any person or persons domiciled in such residence or dwelling place, the penalty of *reclusion temporal* shall be imposed on the perpetrators of the crime of home invasion.

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ARTICLE III

JUSTIFIABLE USE OF FORCE AS A DETERRENT TO HOME INVASION

SEC. 6. *Discharge of Firearms Within the Residence.*—The wilful discharge of a firearm duly licensed and legally registered firearm by the homeowner or by any member of the household who is a legal resident thereof and while within the premises of their residence shall be considered as legally justified; *Provided*, That such discharge of firearm was undertaken in order to deter the commission of crime or to raise alarm or warning against possible danger.

SEC. 7. *Presumption of Unlawful Intent.*—The unauthorized entry of any person or persons inside the property limits of the legal residence of another, i.e., inside the perimeter walls or boundary lines of the residence, but outside of the main edifice, shall be legally construed as having unlawful intent. The legal owner or authorized user of a firearm or any member of the household who is a legal resident thereof shall be lawfully justified when confronting said intruder or intruders with either a drawn firearm or a firearm aimed against intruders.

SEC. 8. *Presumption of Unlawful Aggression.*—The unauthorized entry of any person or persons inside the main edifice of the legal residence of another shall be legally construed to constitute unlawful aggression. The use of firearms by the legal owner or authorized user thereof or by any member of the household who is a legal resident thereof against such transgressions shall be lawfully construed to constitute reasonable necessity to prevent or repel said unlawful aggression.

SEC. 9. *Use of Firearms in the Protection and Preservation of the Residence.*—The use of firearms by the legal owner or authorized user thereof or by any member of the household who is a legal resident thereof shall be considered as lawfully justified when undertaken to repel any attack against said residence, prevent further damage to, destruction or usurpation of the same or of any property or possession that are kept within the premises of said residence. *Provided*, That there is no sufficient provocation on the part of the resident or the homeowner and that such attacks or actions that will lead to the damage, destruction, or usurpation of the property or possession kept within the residence have already been initiated against the same.

SEC. 10. *Use of Firearms Outside Residence.*—While in the act of defending one's person, family or property against the crime of home invasion or in the act of repelling the same, the legal owner or authorized user of firearms shall be considered as lawfully justified in using said firearms outside the premises of his residence. The pursuit of a person or persons who committed the crime

1 of home invasion immediately after or within a reasonable time after the commission of the crime
2 by the resident with a legally owned firearm outside the premises of his residence shall be construed
3 as an act integral to the defense of one's person, family, or property.

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5 **ARTICLE IV**
6 **MISCELLANEOUS PROVISIONS**
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8 **SEC. 11. *Repealing Clause.***—All laws, decrees, executive orders or parts thereof
9 inconsistent with the provisions of this Act is hereby repealed or modified accordingly.
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11 **SEC. 12. *Separability Clause.***—If any part or provision of this Act is declared invalid or
12 unconstitutional, the other parts not otherwise affected shall remain in full effect and force.
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14 **SEC. 13. *Effectivity.***—This Act shall take effect fifteen (15) days after its publication in the
15 Official Gazette and in at least two newspapers of general circulation.

Approved,