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EVICITION FOR ILLEGAL ACTIVITIES

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

AN ACT RELATING TO JUDICIAL CODE; EXPANDING DEFINITION OF NUISANCE FOR PURPOSE OF EVICTION; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

78-38-9, as last amended by Chapter 69, Laws of Utah 1996

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

Section 1. Section **78-38-9** is amended to read:

78-38-9. Nuisance -- Right of action to abate nuisances -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Prostitution -- Weapons.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Controlled Substances;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78-38-1(1);

(c) criminal activity is committed in concert with two or more persons as provided in Section 76-3-203.1;

(d) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78-38-1(1); [and]

(e) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

(f) if the violation occurs on the premises, a violation of Title 76, Chapter 10, Part 5,

28 Weapons.

29 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove [he] that
30 the defendant is lawfully entitled to possession of a controlled substance.

31 (3) Sections 78-38-10 through 78-38-16 govern only an abatement by eviction of the
32 nuisance as defined in Subsection (1).

Legislative Review Note
as of 1-25-99 8:54 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel