

CHAPTER 161
FORMERLY
SENATE BILL NO. 65
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO NUISANCE ABATEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Heading of Chapter 71 of Title 10 of the Delaware Code by striking the words “Drug Nuisance and Social Vices” and inserting in lieu thereof the words “Criminal Nuisance”.

Section 2. Amend § 7101 of Title 10 of the Delaware Code by striking the words “Drug Nuisance and Social Vices” as they appear and inserting in lieu thereof the words “Criminal Nuisance”.

Section 3. Amend § 7102(a)(1) of Title 10 of the Delaware Code by striking the words “drug nuisance or illegal drug activity as defined herein, as well as a variety of nuisances involving social vices such as lewdness, assignation, prostitution and illegal gambling” as it appears and inserting in lieu thereof the words “any criminal nuisance as defined herein;”.

Section 4. Amend § 7102(a)(2) of Title 10 of the Delaware Code by striking the words “involving social vices cited above” as they appear and inserting in lieu thereof the words “defined herein;”.

Section 5. Amend § 7102(a)(3) of Title 10 of the Delaware Code by striking the words “involving social vices cited above” as they appear and inserting in lieu thereof the words “defined herein”.

Section 6. Amend § 7102(b) of Title 10 of the Delaware Code by adding the word “criminal” between the word “a” and the word “nuisance” as it appears.

Section 7. Amend § 7102 by inserting a new paragraph (c) to read as follows:

“(c) Any action brought on the basis of a criminal nuisance defined at § 7103(5)(b) of this Chapter is intended to abate the criminal nuisance existing on those properties where illegal firearms exist and those who use illegal firearms congregate. It is not intended to interfere with the right to lawful possession or use of firearms by law abiding citizens.”

Section 8. Amend § 7103 of Title 10 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

“§7103. Definitions.

As used in this chapter, unless the context indicates differently:

(1) “Adverse impact” means the presence of one or more of the following conditions:

- (a) Diminished real property value related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances in or near the property;
- (b) Increased fear of residents to walk through or in public areas, including sidewalks, streets, and parks, due to the presence of nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- (c) Increased volume of vehicular and pedestrian traffic to and from the property that is related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- (d) An increase in the number of police calls to the property that are related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- (e) Bothersome solicitations or approaches by persons wishing to engage in prostitution or to sell controlled substances or drug paraphernalia on or near the property;
- (f) The presence, use, or display or discharge of illegal firearms at or near the property;
- (g) Investigative purchases of controlled substances or drug paraphernalia, or investigative actions relating to prostitution by undercover law enforcement officers at or near the property;
- (h) Arrests of persons on or near the property for criminal conduct relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;
- (i) Search warrants served or executed at the property relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

(j) A substantial number of complaints made to law enforcement and other government officials regarding nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

(k) Increased number of housing or health code violations relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

(l) Any other impact the Court deems to be relevant and consistent with safeguarding the public health, safety, and welfare of the community.

(2) "Controlled substance," "manufacture," "distribution," "sale," "trafficking," and "possession with intent to sell or distribute" shall have the same meaning as those terms are used in Chapter 47 of Title 16.

(3) "Court" means the Superior Court of the State of Delaware.

(4) "Criminal gangs" means any criminal street gangs or youth gangs as defined in Sections 616-617 of Title 11. "Pattern of criminal gang activity" shall have the same meaning as defined in Section 616(a)(2) of Title 11.

(5) "Criminal nuisance" means any real property at which:

(a) An illegal drug event has occurred within the period of 1 year prior to the commencement of the civil action under this chapter; or

(b) The illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, storing or delivery of ammunition or firearms has occurred, or any act or acts which constitute any felony set forth in Subpart E of Subchapter VII of Chapter 5 of Title 11 of the Delaware Code or an unlawful attempt or conspiracy to commit such an act; or

(c) Prostitution is promoted, facilitated or permitted in violation Sections 1342-1344 and 1351-1356 of Title 11 of the Delaware Code; or

(d) Criminal gangs are engaging in a pattern of criminal gang activity; or

(e) An act that would constitute a violent felony, as defined by Section 4201(c) of Title 11 of the Delaware Code, has occurred within the period of 1 year prior to the commencement of the civil action under this chapter; or

(f) A material annoyance, inconvenience, discomfort, or a tangible injury occurs to neighboring properties or persons, and which a court considers objectionable under the circumstances, or any other public nuisance defined by state or municipal codes or Delaware law.

(6) "Firearm" shall have the same meaning as those terms are used in Section 222 of Title 11 of the Delaware Code. "Ammunition" shall have the same meaning as those terms are used in Section 1448 (c) of Title 11 of the Delaware Code.

(7) "Illegal Drug Events" means the unlawful manufacture, distribution, trafficking, sale or possession with intent to distribute, sell or deliver a controlled substance, or any act or acts which constitute any felony set forth in Chapter 47 of Title 16 of the Delaware Code, or an unlawful attempt or conspiracy to commit such an act.

(8) "Landlord" shall have the same meaning as that term is defined in Section 5141 of Title 25 of the Delaware Code.

(9) "Owner" means any person in whom is vested the ownership and title of property, and who is the owner of record. "Owner" shall include any local, city, county, state or federal governmental entity.

(10) "Person" means a human being who has been born and is alive, and, where appropriate, a public or private corporation, a trust, a firm, a joint stock company, a union, an unincorporated association, a partnership, a government or a governmental instrumentality.

(11) "Place," "site" or "premises" includes any building, structure, erection, or any separate part or portion thereof, whether used as a residence, for commercial purposes or a house of worship, or the ground itself."

Section 9. Amend § 7104 of Title 10 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

"§ 7104. Maintaining a criminal nuisance.

Any person, including but not limited to any owner, agent, employee or lessee, who uses occupies, establishes, promotes, permits, facilitates, or conducts a criminal nuisance, or aids or abets therein, shall be liable for maintaining a criminal nuisance and shall be enjoined as provided in this chapter."

Section 10. Amend § 7105 of Title 10 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

“§ 7105. Action to abate criminal nuisance.

(a) Whenever a criminal nuisance exists and it adversely impacts the community, the Attorney General may bring an action to abate a criminal nuisance under this Title to obtain temporary and permanent abatement relief under Sections 7111 and 7113 and to seek civil penalties provided under Section 7126 of this Title.

(b) Any other person, as defined in Section 7103 of this Title, may bring an action to abate a criminal nuisance under this Title on behalf of the Attorney General in the name of the State of Delaware, provided the person serves the State Solicitor with a copy of the complaint within five days of filing. The Attorney General may elect to intervene and proceed with the action after it receives a copy of the complaint. If the Attorney General reviews the complaint and determines that there is insufficient evidence to support the claim, the Attorney General may dismiss the complaint.”

Section 11. Amend § 7106(b) of Title 10 of the Delaware Code by striking the words “nuisance or illegal drug activity” as they appear and inserting in lieu thereof the words “criminal nuisance”.

Section 12. Amend § 7106 of Title 10 of the Delaware Code by adding a new subsection (c) to read as follows: “The court shall have in rem jurisdiction over the premises alleged to be a criminal nuisance, and the complaint initiating the civil action pursuant to this chapter shall name as a defendant the premises involved, describing it by block, lot number and street address, or by such means as are appropriate in the circumstances.”

Section 13. Amend § 7107 of Title 10 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

“§ 7107. Affirmative Defenses.

It shall be an affirmative defense for the owner or landlord to establish, by a preponderance of the evidence, that said owner or landlord attempted to abate the alleged criminal nuisance prior to receiving notice in writing of the State’s intent to bring a criminal nuisance abatement action regarding the premises. Examples of actions that are indicia of attempts to abate alleged criminal nuisances include but are not limited to:

- (a) Sending or delivering a notice pursuant to Section 5513 of Title 25 that the conduct of the tenant, or their guests or invitees, breaches a rule or covenant that is material to the rental agreement;
- (b) Sending or delivering a termination notice pursuant to Section 5513(a) or (b) of Title 25;
- (c) Filing an action for summary possession of the rental unit;
- (d) Seeking police intervention to have those responsible for the action prosecuted and actively assisting the police in efforts to prosecute those responsible for the actions or activities being complained of by the complainants.”

Section 14. Amend § 7109 of Title 10 of the Delaware Code by striking said Section in its entirety.

Section 15. Amend § 7110(c) of Title 10 of the Delaware Code by striking the phrase “or any other person or entity authorized to bring an action pursuant to this chapter” as it appears in the paragraph.

Section 16. Amend § 7111 of Title 10 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

“§ 7111. Temporary abatement hearing; order; procedure.

(a) To bring a civil action for abatement relief pursuant to this chapter, the Office of the Attorney General, or any other person authorized, may file a complaint seeking temporary relief by alleging that the premises constitute a criminal nuisance which adversely impacts the community. Upon receipt of the complaint, the court, on application of the plaintiff, may issue an ex parte temporary abatement order prohibiting the defendants and all other persons from committing or permitting any act or acts of waste to the premises, or to the personal property and contents thereof, and from knowingly tampering with any evidence likely to be used by any party in any judicial proceeding until the decision of the court granting or refusing the temporary abatement order thereon. Absent such ex parte relief by the court, the court shall order a preliminary hearing which shall be held no later than 10 days from the date upon which service upon all parties was completed, unless otherwise agreed to by the parties. In the event that service cannot be completed in time to give the owners or tenants the minimum notice required by this subsection, the court may set a new hearing date.

(b) A copy of the complaint together with a notice of the time and place of the hearing of the application for a temporary abatement order shall be served upon the defendants at least 5 days before the hearing. If the hearing be then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

(c) Each defendant so notified shall serve upon the complainant, or the complainant's attorney, a verified answer on or before the date fixed in the notice for the hearing and such answer shall be filed with the Prothonotary's Office wherein the cause is triable, but the Court may allow additional time for so answering, providing such extension of the time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be denied without further pleading.

(d) If the court finds (1) that the premises constitute a criminal nuisance that adversely impacts the community, (2) that at least 10 days prior to the filing of the complaint seeking temporary abatement relief, the owner or the owner's agent (or tenant, where such is an in personam defendant) had been notified by certified letter of the criminal nuisance and (3) that the public health, safety or welfare immediately requires a temporary closing order and unless the owner or the owner's agent shows to the satisfaction of the court that the criminal nuisance complained of has been sufficiently abated, or that such person proceeded forthwith to enforce his or her rights under this chapter as more fully set forth herein, the court shall issue a temporary abatement order to close the premises involved, the portions appropriate in the circumstances, or any other temporary abatement remedy requested by the Attorney General's Office. The order shall direct actions necessary to physically secure the premises, or appropriate portions thereof, against use for any purpose. The temporary abatement order may also prohibit the defendant and all persons from removing or in any manner interfering with the furniture, fixtures and movable or personal property located on or within the premises constituting the criminal nuisance. Where a tenant is a defendant, the court may issue a closing order prohibiting him or her from residing at or having contact with the premises.

(e) To determine whether the health, safety, or welfare of the community immediately requires a temporary abatement order, the court shall consider any relevant evidence presented concerning any attendant circumstances, including but not limited to:

- (1) the extent and duration of the criminal nuisance and severity of the impact on the community;
- (2) the proximity of the property to other residential structures;
- (3) the number of times the owner or tenant has been notified of criminal nuisance related problems at the property;
- (4) the prior efforts, or lack of efforts, by the defendant to abate the criminal nuisance;
- (5) the involvement of the owner or tenant in the criminal nuisance;
- (6) the costs incurred by the jurisdiction or community based organizations in investigating or attempting to correct the criminal nuisance;
- (7) whether the criminal nuisance is continuous or recurring;
- (8) whether the criminal nuisance involves the use or threat of violence; or
- (9) any other factor the Court deems relevant and in the interests of the public health, safety, or welfare of the community.

(f) If the court finds that the premises constitute a criminal nuisance but that immediate closing of the premises is not required pursuant to subsection (d) of this section, the court may abate the criminal nuisance by issuing an order prohibiting the defendants and all other persons from conducting, maintaining, aiding, abetting or permitting events constituting the criminal nuisance, or from otherwise having contact with the premises. Additionally, the court may issue an order appointing a temporary receiver to manage or operate the premises or order that any defendant take immediate actions including, but not limited to, the remedies listed in Section 7113(e)(7) of this title. A temporary receiver shall have such powers and duties specifically authorized pursuant to Section 7113 of this title.

(g) Notwithstanding the Delaware Rules of Evidence, any police report concerning the premises, and any witness statements contained therein, may be admitted into evidence in determining the existence of a criminal nuisance or whether any form of temporary abatement relief is appropriate.

(h) The abatement order shall be served pursuant to the procedures set forth in Section 7108 of this title, and by both such delivery and posting. The officer serving such abatement order shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining the criminal nuisance. The parties may enter into a consent order in relation to or with respect to temporary abatement relief or permanent abatement relief. Any such order must be approved by the court. Any violation of such abatement order shall be a contempt of court, and where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided such posted order contains thereon or therein a notice to that effect.

(i) The temporary abatement order shall remain in place until a permanent abatement hearing. Any violation of the Court's temporary abatement order shall be contempt of court, to be punished as provided in this chapter.

(j) The owner or owners of any real or personal property so closed or prohibited, or to be closed or prohibited, may petition the court for an expedited schedule for the permanent abatement hearing.

(k) The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law."

Section 17. Amend § 7113 of Title 10 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

"§ 7113. Permanent abatement for all criminal nuisance actions; hearing; admissible evidence.

(a) An action, when brought under this chapter, shall be noticed for trial at a time to be fixed by the Superior Court.

(b) In the action evidence of the general reputation of the place, or an admission, or finding of guilt of any person under the criminal laws at any such place, shall be admissible for the purpose of proving the existence of the criminal nuisance, and shall be prima facie evidence of such criminal nuisance and of knowledge of and of acquiescence and participation therein on the part of the person charged with maintaining the criminal nuisance as defined in this chapter.

(c) If the existence of the criminal nuisance is established upon the trial, the court shall grant permanent abatement relief which perpetually prohibits the defendants and any other person from further maintaining the criminal nuisance at the place complained of, and the defendants from maintaining such criminal nuisance elsewhere within the State and shall issue such other orders as are necessary to abate the criminal nuisance and to prevent to the extent reasonably possible the recurrence of the criminal nuisance. The court's order may include, but need not be limited to all of the following:

(1) Directing the sheriff or other appropriate agency to seize and remove from the premises all material, equipment and instrumentalities used in the creation and maintenance of the criminal nuisance, and directing the sheriff to sell the property in the manner provided for the sale of property under execution in accordance with the general rules of civil procedure. The net proceeds of any such sale, after the deduction of all lawful expenses involved, shall be paid pursuant to Section 7114 of this title.

(2) Authorizing the plaintiffs, subsequent to an order granting plaintiffs the right to seize the property in question, to make repairs, renovations and construction and structural alterations or to take such other actions necessary to bring the premises into compliance with all applicable housing, fire, zoning, health and safety codes, ordinances, rules, regulations or statutes. Such repairs, renovations or construction shall only be undertaken after the appropriate regulatory agency has first inspected the property in question, determined that code, ordinance or statutory violations exist and has reported same to the court. If no order of seizure is granted and the owner or owners of the property remain in possession, the court may order said owner or owners to make the appropriate repairs as set forth herein following the inspection and determination of violations by the appropriate regulatory agency. Expenditures by the plaintiffs pursuant to this paragraph may be filed as a lien against the property.

(3) Directing the closing of the premises, or appropriate portion thereof, to the extent necessary to abate the criminal nuisance, and directing the officer or agency enforcing the closure order to post a copy of the judgment and a printed notice of such closing order conforming to the requirements of Section 7111 of this title. The closing directed by the judgment shall be for such a period of time as the court may direct but, subject to the provisions of Section 7121 of this title, shall not be for a period of more than 1 year from the posting of the judgment provided for in this subsection.

(4) Suspending or revoking any business, operational, rental or liquor license.

(5) Suspending or revoking any lease.

(6) Ordering the suspension of any state, city or local governmental subsidies payable to the owners of the property, such as tenant assistance payments to landlords, until the criminal nuisance is satisfactorily abated.

(7) Appointing a temporary receiver to manage or operate the premises for such a time as the court deems necessary to abate the nuisance. A receiver appointed pursuant to this section shall have such powers and duties as the court shall direct, including but not limited to:

a. Collecting, holding and dispersing the proceeds of all rents from all tenants;

b. Leasing or renting portions of the premises involved;

c. Making or authorizing other persons to make necessary repairs or to maintain the property;

d. Hiring security or other personnel necessary for the safe and proper operation of the premises;

- e. Retaining counsel to prosecute or defend suits arising from his or her management of the premises;
- f. Bringing actions for summary possession of any premises; and
- g. Expending funds from the collected rents in furtherance of the foregoing powers.

(8) A receiver appointed by the court pursuant to this section or Section 7111 of this title shall upon entering upon his or her duties be sworn and shall affirm faithfully and fairly to discharge the trust committed to him or her. In addition, the receiver may be required to post a bond in an amount to be fixed by the court making the appointment, to ensure that such receiver will faithfully discharge his or her duties.

(9) If the existence of a criminal nuisance as defined in this chapter is admitted or established in an action under this chapter, the court may, in addition to the aforementioned remedies or sanctions, order the removal from the place of the criminal nuisance all personal property and contents used in conducting the criminal nuisance and not already released under authority of the court as provided in Section 7111 of this title, and shall further direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution.

(d) Owners of unsold personal property and contents so seized must appear and claim same within 10 days after such order of abatement is made. The burden shall be on the owner to show, to the satisfaction of the court, lack of any knowledge of the use thereof, and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place. If such innocence be so established, such unsold personal property and contents shall be delivered to the owner; otherwise it shall be sold as provided in this chapter.

(e) If any person breaks and enters, or uses a place so directed to be closed, that person shall be punished as for contempt as provided in this chapter.

(f) For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as that officer would for levying upon and selling like property on execution, and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.

(g) The Court may impose any or all of the foregoing remedies in combination with each other.”

Section 18. Amend § 7114 of Title 10 of the Delaware Code by inserting the word “Criminal” in front of every word “nuisance” as it appears in said Section.

Section 19. Amend § 7115 of Title 10 of the Delaware Code by inserting the word “criminal” between the word “for” and the word “nuisance” as it appears in the heading.

Section 20. Amend § 7115 of Title 10 of the Delaware Code by striking the words “the purpose of illegal drug activity, a drug nuisance, lewdness, assignation, illegal gambling or prostitution” as it appears and inserting in lieu thereof the words “a criminal nuisance-related purpose”.

Section 21. Amend § 7116 of Title 10 of the Delaware Code by striking said Section in its entirety.

Section 22. Amend § 7117 of Title 10 of the Delaware Code by striking said Section in its entirety.

Section 23. Amend § 7118(a) of Title 10 of the Delaware Code by striking the phrase “an ex parte closing order as provided in § 7111 of this title” as they appear and inserting in lieu thereof the word “a closing order involving a criminal nuisance as defined in § 7103(5)(a) of this title”.

Section 24. Amend § 7119 of Title 10 of the Delaware Code by inserting the word “criminal” before the word “nuisance” in all places it appears in the Section.

Section 25. Amend § 7119(a) of Title 10 of the Delaware Code by striking the words “the recurrence of drug distribution events” as they appear and inserting in lieu thereof the words “its recurrence.”

Section 26. Amend § 7119(b) of Title 10 of the Delaware Code by striking the words “drug distribution event” as they appear and inserting in lieu thereof the words “criminal nuisance.”

Section 27. Amend § 7120 of Title 10 of the Delaware Code by striking said Section in its entirety.

Section 28. Amend § 7123 of Title 10 of the Delaware Code by inserting the word “criminal” before the word “nuisance” anytime it appears in the Section.

Section 29. Amend § 7123(a) of Title 10 of the Delaware Code by striking the phrase “against illegal drug activity, a drug nuisance, prostitution, lewdness, illegal gambling or assignation” as it appears in the paragraph.

Section 30. Amend § 7123(c) of Title 10 of the Delaware Code by striking the phrase “, including those involving a drug distribution event constituting the drug nuisance,” as it appears in said paragraph.

Section 31. Amend § 7123(c) of Title 10 of the Delaware Code by striking the words “nuisance or drug distribution event” and inserting in lieu thereof the words “criminal nuisance”.

Section 32. Amend § 7123(f) of Title 10 of the Delaware Code by striking the words “nuisance or any alleged drug distribution events committed” and inserting in lieu thereof the words “criminal nuisance”.

Section 33. Amend § 7124 of Title 10 of the Delaware Code by inserting the word “criminal” before the word “nuisance” anytime it appears in the Section.

Section 34. Amend § 7125 of Title 10 of the Delaware Code by inserting the word “criminal” before the word “nuisance” anytime it appears in the Section.

Section 35. Amend § 7125(a) of Title 10 of the Delaware Code by striking the words “Subject to the provision of § 7120 of this title and unless” and inserting in lieu thereof the word “Unless”.

Section 36. Amend § 7126 of Title 10 of the Delaware Code by inserting the word “criminal” before the word “nuisance” anytime it appears in the Section.

Section 37. Amend § 7126(a) of Title 10 of the Delaware Code by striking the words “The penalty shall be \$25,000 or the market value of the entire premises involved” as they appear in said paragraph and inserting in lieu thereof the words “The court shall order civil penalties in the amount of \$25,000 or the court, at its discretion, may order a civil penalty up to \$1,000 for each day the criminal nuisance exists”.

Section 38. Amend § 7126(a) of Title 10 of the Delaware Code by striking the words “the court finds, based on the evidence, that” as it appears in said paragraph.

Section 39. Amend § 7126(b)(1) of Title 10 of the Delaware Code by striking the words “nuisance, including but not limited to drug activities, involvement with a drug nuisance or drug distribution events” as it appears in said paragraph and inserting in lieu thereof the words “criminal nuisance”.

Section 40. Amend § 7128(b) of Title 10 of the Delaware Code by striking the word “drug” as it appears in said paragraph and inserting in lieu thereof the word “criminal”.

Section 41. Amend § 7131(b) of Title 10 of the Delaware Code by striking the word “drug” as it appears in said paragraph and inserting in lieu thereof the word “criminal”.

Section 42. Amend § 7133(a) of Title 10 of the Delaware Code by striking the words “§ 7107” as it appears in said paragraph and inserting in lieu thereof the words “§7105”.

Section 43. Amend § 7133(a) of Title 10 of the Delaware Code by inserting the word “criminal” between the word “a” and the word “nuisance” as it appears in said paragraph.

Section 44. Amend § 7133(a) of Title 10 of the Delaware Code by striking the words “any illegal drug activity or other nuisance as defined in this chapter or any drug distribution event constituting the drug nuisance” as it appears in said paragraph and inserting in lieu thereof the words “criminal nuisance as defined in this chapter.”.

Section 45. Amend § 7133(b) of Title 10 of the Delaware Code by striking the words “illegal drug activity or nuisance as defined in this chapter or any drug distribution events committed” as it appears in said paragraph and inserting in lieu thereof the word “involvement in a criminal nuisance”.

Section 46. Amend § 7133 (b) of Title 10 of the Delaware Code by striking the word “drug” as it appears in said paragraph and inserting in lieu thereof the word “criminal”.

Section 47. Amend § 7133(c) of Title 10 of the Delaware Code by striking the words “nuisance or illegal drug activity or drug nuisance” as it appears in said paragraph and inserting in lieu thereof the words “criminal nuisance as defined in this chapter.”.

Section 48. Amend Chapter 71 of Title 10 of the Delaware Code by adding a new section to read as follows:

“§ 7134. Presumptions.

(a)The person in whose name the premises involved is recorded in the Recorder of Deeds office shall be presumed to be the owner thereof.

(b) Whenever there is evidence that a person was the manager, operator, supervisor or was in any other way in charge of the premises involved at the time of any conduct constituting the criminal nuisance is alleged to have been committed, such evidence shall be rebuttably presumptive that such person was an agent or employee of the owner, landlord or lessee of the premises.”

Approved August 03, 2011