

SECOND REGULAR SESSION

HOUSE BILL NO. 1585

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CROSS (Sponsor), SCHOELLER, FRAKER, HOUGHTON, JONES (117), DAVIS, SCHNEIDER, SCHATZ, FITZWATER, SHUMAKE, HAMPTON, WETER, LANT, MOLENDORP, SATER, LAUER, JONES (89), RIDDLE, REDMON, KOENIG, ANDERS, CONWAY (14), BROWN (116), GATSCHENBERGER, BERRY, BRANDOM, SMITH (150), McCAHERTY, FUNDERBURK AND RICHARDSON (Co-sponsors).

4673L.01H

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 535.020, 535.040, and 535.160, RSMo, and to enact in lieu thereof three new sections relating to landlords-tenants actions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 535.020, 535.040, and 535.160, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 535.020, 535.040, and 535.160, to read as follows:

535.020. **1.** Whenever any rent has become due and payable, and payment has been demanded by the landlord or the landlord's agent from the lessee or person occupying the premises, and payment thereof has not been made, the landlord or agent may file a statement, verified by affidavit, with any associate circuit judge in the county in which the property is situated, setting forth the terms on which such property was rented, and the amount of rent actually due to such landlord; that the rent has been demanded from the tenant, lessee or person occupying the premises, and that payment has not been made, and substantially describing the property rented or leased. Giving the notice provided in section 441.060 is not required prior to filing a statement or obtaining the relief provided in this chapter. In such case, the clerk of the court shall immediately issue a summons directed to such tenant or lessee and to all persons occupying the premises, by name, requiring them to appear before the judge upon a day to be therein named, and show cause why possession of the property should not be restored to the plaintiff. The landlord or agent may, in such an action for unpaid rent, join a claim for any other

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 unpaid sums, other than property damages, regardless of how denominated or defined in the
15 lease, to be paid by or on behalf of a tenant to a landlord for any purpose set forth in the lease;
16 provided that such other sums shall not be considered rent for purposes of this chapter, and
17 judgment for the landlord for recovery of such other sums shall not by itself entitle the landlord
18 to an order for recovery of possession of the premises. The provisions of this section providing
19 for the filing of a statement before an associate circuit judge shall not preclude adoption of a
20 local circuit court rule providing for the centralized filing of such cases, nor the assignment of
21 such cases to particular circuit or associate circuit judges pursuant to local circuit court rule or
22 action by the presiding judge of the circuit. The case shall be heard and determined under the
23 practice and procedure provided in the Missouri rules of civil procedure, except where otherwise
24 provided by this chapter.

25 **2. If a judgment has been entered in favor of the plaintiff under subsection 1 of this**
26 **section for recovery of the premises, within ten days of such judgment, the sheriff of the**
27 **county in which the premises is located shall inspect premises for safety prior to removal**
28 **of contents, if any.**

535.040. 1. Upon the return of the summons executed, the judge shall set the case on
2 the first available court date, **so long as such date is within thirty days**, and shall proceed to
3 hear the cause, and if it shall appear that the rent which is due has been demanded of the tenant,
4 lessee or persons occupying the property, and that payment has not been made, and if the
5 payment of such rent, with all costs, shall not be tendered before the judge, on the hearing of the
6 cause, the judge shall render judgment that the landlord recover the possession of the premises
7 so rented or leased, and also the debt for the amount of the rent then due, with all court costs and
8 shall issue an execution upon such judgment, commanding the officer to put the landlord into
9 immediate possession of the property leased or rented, and to make the debt and costs of the
10 goods and chattels of the defendant. No money judgment shall be granted to the plaintiff if the
11 defendant is in default and service was by the posting procedure provided in section 535.030
12 unless the defendant otherwise enters an appearance. The officer shall deliver possession of the
13 property to the landlord within five days from the time of receiving the execution, and the officer
14 shall proceed upon the execution to collect the debt and costs, and return the writ, as in the case
15 of other executions. If the plaintiff so elects, the plaintiff may sue for possession alone, without
16 asking for recovery of the rent due.

17 2. Except for willful, wanton, or malicious acts or omissions, neither the landlord nor
18 his or her successors, assigns, agents, nor representatives shall be liable to any tenant or
19 subtenant for loss or damage to any household goods, furnishings, fixtures, or any other personal
20 property left in or at the dwelling by the tenant or subtenant of such dwelling, by the reason of

21 the landlord's removal or disposal of the property under a court-ordered execution for possession
22 of the premises.

23 3. Notwithstanding the provisions of subsection 2 of this section, if, after the sheriff has
24 completed the court-ordered execution, property is left by the tenant in or at the dwelling bearing
25 a conspicuous permanent label or marking identifying it as the property of a third party, the
26 landlord shall notify the third party by certified mail with a return receipt requested. The third
27 party shall be given an opportunity to recover such property within five business days of the date
28 such notice is received. If the landlord is unable to notify the third party, the landlord may
29 remove or dispose of such property and shall incur no liability for any loss or damage thereto.

535.160. **1. After a money judgment has been entered in favor of the plaintiff, the**
2 **defendant shall pay such moneys within five days of such judgment with certified funds.**
3 If the defendant, on the date any money judgment is given in any action pursuant to this chapter,
4 either tenders to the landlord, or brings into the court where the suit is pending, all the rent then
5 in arrears, and all the costs, further proceedings in the action shall cease and be stayed. If on any
6 date after the date of any original trial but before any trial de novo the defendant shall satisfy
7 such money judgment and pay all costs, any execution for possession of the subject premises
8 shall cease and be stayed; except that the landlord shall not thereby be precluded from making
9 application for appeal from such money judgment. If for any reason no money judgment is
10 entered against the defendant and judgment for the plaintiff is limited only to possession of the
11 subject premises, no stay of execution shall be had, except as provided by the provisions of
12 section 535.110 or the rules of civil procedure or by agreement of the parties.

13 **2. If the landlord is required to hire an attorney for proceedings against the tenant,**
14 **the tenant shall pay attorney fees if the landlord prevails in such action.**

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