

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 781
94TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, February 14, 2008, with recommendation that the Senate Committee Substitute do pass.

3109S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 535.040, RSMo, and to enact in lieu thereof one new section relating to landlord-tenant actions.

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

Section A. Section 535.040, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 535.040, to read as follows:

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

19 **2. Neither the landlord, nor his or her successors, assigns,**
20 **agents, nor representatives shall be liable to anyone for loss or damage**

21 to any household goods, furnishings, fixtures, or any other personal
22 property left in or at the dwelling, by the reason of the landlord's
23 removal or disposal of the property under a court-ordered execution for
24 possession of the premises.

25 3. Notwithstanding the provisions of subsection 2 of this section,
26 if, after the sheriff has completed the court-ordered execution, property
27 is left by the tenant in or at the dwelling bearing a conspicuous
28 permanent label or marking identifying it as the property of a third
29 party, the landlord shall make a reasonable effort to notify such third
30 party, who shall be given an opportunity to recover such property
31 within five business days of the date such notice is received. If the
32 landlord is unable to notify the third party after reasonable efforts
33 have been made, the landlord may remove or dispose of such property
34 and shall incur no liability for any loss or damage thereto.

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Bill

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