

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 231
95TH GENERAL ASSEMBLY

Reported from the Committee on General Laws, February 18, 2009, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1201S.02C

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Section A. Section 535.040, RSMo, is repealed and one new section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. Except for willful, wanton, or malicious acts or omissions,**
20 **neither the landlord, nor his or her successors, assigns, agents, nor**

21 representatives shall be liable to any tenant or subtenant for loss or
22 damage to any household goods, furnishings, fixtures, or any other
23 personal property left in or at the dwelling by the tenant or subtenant
24 of such dwelling, by the reason of the landlord's removal or disposal of
25 the property under a court-ordered execution for possession of the
26 premises.

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

Bill ✓

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