

FIRST REGULAR SESSION

# SENATE BILL NO. 231

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time January 22, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1201S.011

## 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Section A. Section 535.040, RSMo, is repealed and one new section  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 make a reasonable effort to notify such third  
32 party, who shall be given an opportunity to recover such property  
33 within five business days of the date such notice is received. If the  
34 landlord is unable to notify the third party after reasonable efforts  
35 have been made, the landlord may remove or dispose of such property  
36 and shall incur no liability for any loss or damage thereto.

Bill ✓

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