

FIRST REGULAR SESSION

# SENATE BILL NO. 189

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR ROMINE.

Read 1st time January 22, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1055S.011

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## AN ACT

To repeal section 535.030, RSMo, and to enact in lieu thereof one new section relating to the failure to vacate leased premises in a rent and possession case, with penalty provisions.

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

Section A. Section 535.030, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 535.030, to read as follows:

535.030. 1. Such summons shall be served as in other civil cases at least  
2 four days before the court date in the summons. The summons shall include a  
3 court date which shall not be more than twenty-one business days from the date  
4 the summons is issued unless at the time of filing the affidavit the plaintiff or  
5 plaintiff's attorney consents in writing to a later date.

6 2. In addition to attempted personal service, the plaintiff may request,  
7 and thereupon the clerk of the court shall make an order directing that the  
8 officer, or other person empowered to execute the summons, shall also serve the  
9 same by securely affixing a copy of such summons and the complaint in a  
10 conspicuous place on the dwelling of the premises in question at least ten days  
11 before the court date in such summons, and by also mailing a copy of the  
12 summons and complaint to the defendant at the defendant's last known address  
13 by ordinary mail at least ten days before the court date. If the officer, or other  
14 person empowered to execute the summons, shall return that the defendant is not  
15 found, or that the defendant has absconded or vacated his or her usual place of  
16 abode in this state, and if proof be made by affidavit of the posting and of the  
17 mailing of a copy of the summons and complaint, the judge shall at the request  
18 of the plaintiff proceed to hear the case as if there had been personal service, and  
19 judgment shall be rendered and proceedings had as in other cases, except that no

20 money judgment shall be granted the plaintiff where the defendant is in default  
21 and service is by the posting and mailing procedure set forth in this section.

22 3. If the plaintiff does not request service of the original summons by  
23 posting and mailing as provided in subsection 2 of this section, and if the officer,  
24 or other person empowered to execute the summons, makes return that the  
25 defendant is not found, or that the defendant has absconded or vacated the  
26 defendant's usual place of abode in this state, the plaintiff may request the  
27 issuance of an alias summons and service of the same by posting and mailing in  
28 the time and manner provided in subsection 2 of this section. In addition, the  
29 plaintiff or an agent of the plaintiff who is at least eighteen years of age may  
30 serve the summons by posting and mailing a copy of the summons in the time and  
31 manner provided in subsection 2 of this section. Upon proof by affidavit of the  
32 posting and of the mailing of a copy of the summons or alias summons and the  
33 complaint, the judge shall proceed to hear the case as if there had been personal  
34 service, and judgment shall be rendered and proceedings had as in other cases,  
35 except that no money judgment shall be granted the plaintiff where the defendant  
36 is in default and service is by the posting and mailing procedure provided in  
37 subsection 2 of this section.

38 4. On the date judgment is rendered as provided in this section where the  
39 defendant is in default, the clerk of the court shall mail to the defendant at the  
40 defendant's last known address by ordinary mail a notice informing the defendant  
41 of the judgment and the date it was entered, and stating that the defendant has  
42 ten days from the date of the judgment to file a motion to set aside the judgment  
43 or to file an application for a trial de novo in the circuit court, as the case may  
44 be, and that unless the judgment is set aside or an application for a trial de novo  
45 is filed within ten days, the judgment will become final and the defendant will be  
46 subject to eviction from the premises without further notice.

47 **5. If, after ten days from the date of the judgment the judgment**  
48 **is not set aside or an application for a trial de novo has not been filed,**  
49 **the defendant shall willfully refuse to vacate and surrender the**  
50 **possession of the premises to the plaintiff or the plaintiff's agent, the**  
51 **defendant shall be guilty of a class B misdemeanor.**

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