

SECOND REGULAR SESSION

# SENATE BILL NO. 886

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 18, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6030S.011

## AN ACT

To repeal sections 512.180, 534.060, 535.030, 535.110, 535.160, 535.170, 535.200, and 535.210, RSMo, and to enact in lieu thereof eight new sections relating to landlord tenant actions.

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

Section A. Sections 512.180, 534.060, 535.030, 535.110, 535.160, 535.170, 535.200, and 535.210, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 512.180, 534.060, 535.030, 535.110, 535.160, 535.170, 535.200, and 535.210, to read as follows:

512.180. 1. Any person aggrieved by a judgment in a civil case tried without a jury before an associate circuit judge, other than an associate circuit judge sitting in the probate division or who has been assigned to hear the case on the record under procedures applicable before circuit judges, shall have the right of a trial de novo in all cases tried before municipal court or under the provisions of chapters 482, 534, and 535, **except in actions between a landlord and a tenant under chapter 535.**

2. In all other contested civil cases **including actions between a landlord and tenant under chapter 535** tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

534.060. Forcible entries and detainers, and unlawful detainers, may be  
2 heard and determined by any associate circuit judge of the county in which they  
3 are committed. Neither the provisions of this section or any other section in this  
4 chapter shall preclude adoption of a local circuit court rule providing for the  
5 centralized filing of such cases, nor the assignment of such cases to particular  
6 associate circuit or circuit judges pursuant to local circuit court rule or action by  
7 the presiding judge of the circuit. Such cases shall be heard and determined by  
8 associate circuit judges unless a circuit judge is transferred or assigned to hear  
9 such case or cases or unless the plaintiff pursuant to subsection 2 of section  
10 478.250 has designated the case as one to be heard under the practice and  
11 procedure applicable before circuit judges and the case is heard by a circuit judge.  
12 If the case is heard before an associate circuit judge who has not been specially  
13 assigned to hear the case on the record, to the extent practice and procedure are  
14 not provided in this chapter the practice and procedure provided in chapter 517  
15 shall apply. If the case is heard initially before an associate circuit judge who  
16 has been specially assigned to hear the case on a record or before a circuit judge,  
17 the case shall be heard and determined under the same practice and procedure  
18 as would apply if the case was being heard upon an application for trial de novo  
19 **unless the case involves an action between a landlord and a tenant**, and  
20 in such instances, notwithstanding the specific references to chapter 517 in this  
21 chapter, the practice and procedure provided in the Missouri Rules of Civil  
22 Procedure and the extant provisions of The Civil Code of Missouri shall apply  
23 instead of those contained in chapter 517.

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  
46 be subject to eviction from the premises without further notice.

535.110. Applications for [trials de novo and] appeals shall be allowed and  
2 conducted in the manner provided in chapter 512; but no application for [a trial  
3 de novo or] **an** appeal shall stay execution unless the defendant give bond, with

4 security sufficient to secure the payment of all damages, costs and rent then due,  
5 and with condition to stay waste and to pay all subsequently accruing rent, if  
6 any, into court within ten days after it becomes due, pending determination of the  
7 [trial de novo or] appeal.

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

535.170. After the execution of any judgment for possession pursuant to  
2 this chapter, the lessee and the lessee's assignees, and all other persons deriving  
3 title under the lease from such lessee, shall be barred from reentry of such  
4 premises and from all relief, and except for error in the record or proceedings, the  
5 landlord shall from that day hold the demised premises discharged from the  
6 lease. Nothing in this section shall preclude an aggrieved party from perfecting  
7 an appeal [or securing a trial de novo] as to any judgment rendered, and may as  
8 a result of such appeal [or trial de novo] recover any damage incurred, including  
9 damages incurred from an unlawful dispossession.

535.200. 1. In the twenty-second judicial circuit, upon adoption of an  
2 ordinance by the city of St. Louis providing for expenditure of city funds for such  
3 purpose, a majority of the circuit judges, en banc, may establish a landlord-tenant  
4 court, which shall be a division of the circuit court, and may authorize the  
5 appointment of not more than two landlord-tenant court commissioners. The  
6 landlord-tenant court commissioners shall be appointed by a landlord-tenant  
7 court judicial commission consisting of the presiding judge of the circuit, who  
8 shall be the chair, one circuit judge elected by the circuit judges, one associate  
9 circuit judge elected by the associate circuit judges of the circuit, and two  
10 members appointed by the mayor of the city of St. Louis, each of whom shall  
11 represent one of the two political parties casting the highest number of votes at

12 the next preceding gubernatorial election. The procedures and operations of the  
13 landlord-tenant court judicial commission shall be established by circuit court  
14 rule.

15         2. Landlord-tenant commissioners may be authorized to hear in the first  
16 instance disputes involving landlords and their tenants. Landlord-tenant  
17 commissioners shall be authorized to make findings of fact and conclusions of law,  
18 and to issue orders for the payment of money, for the giving or taking of  
19 possession of residential property and any other equitable relief necessary to  
20 resolve disputes governed by the laws in chapters 441, 524, 534, and this  
21 chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases  
22 and issue orders.

23         3. Landlord-tenant commissioners shall be licensed to practice law in this  
24 state and shall serve at the pleasure of a majority of the circuit and associate  
25 circuit judges, en banc, and shall be residents of the city of St. Louis, and shall  
26 receive as annual compensation an amount equal to one-third of the annual  
27 compensation of an associate circuit judge. Landlord-tenant commissioners shall  
28 not accept or handle cases in their practice of law which are inconsistent with  
29 their duties as a landlord-tenant commissioner and shall not be a judge or  
30 prosecutor for any other court. Landlord-tenant commissioners shall not be  
31 considered state employees and shall not be members of the state employees' or  
32 judicial retirement system or be eligible to receive any other employment benefit  
33 accorded state employees or judges.

34         4. A majority of the judges of the circuit, en banc, shall establish  
35 operating procedures for the landlord-tenant court. Proceedings in the  
36 landlord-tenant court shall be conducted as in cases tried before an associate  
37 circuit judge. The hearing shall be before a landlord-tenant commissioner  
38 without jury, and the commissioner shall assume an affirmative duty to  
39 determine the merits of the evidence presented and the defenses of the defendant  
40 and may question parties and witnesses. Clerks and computer personnel shall  
41 be assigned as needed for the efficient operation of the court.

42         5. The parties to a cause of action before a commissioner of the  
43 landlord-tenant court are entitled to file with the court a motion for a hearing in  
44 associate circuit court within ten days after the mailing, or within ten days after  
45 service.

46         6. Operating procedures shall be provided for electronic recording of  
47 proceedings at city expense. Any person aggrieved by a judgment in a case

48 decided under this section shall have a right to [a trial de novo in circuit court,  
49 or] an appeal to the appropriate appellate court, in the same manner as would  
50 a person aggrieved by a decision of an associate circuit judge under section  
51 535.110. The procedures for perfecting the right of [a trial de novo or] an appeal  
52 shall be the same as that provided pursuant to sections 512.180 to 512.320.

53 7. Any summons issued for the proceedings in the landlord-tenant court  
54 shall have a return date of ten days. The sheriff must attempt to serve any  
55 summons within four days of the date of issuance.

56 8. All costs to establish and operate a landlord-tenant court under this  
57 section shall be borne by the city of St. Louis.

535.210. 1. In the sixteenth judicial circuit, upon adoption of an  
2 ordinance by Jackson County providing for expenditure of county funds for such  
3 purpose, a majority of the circuit court judges, en banc, may establish a  
4 landlord-tenant court, which shall be a division of the circuit court, and may  
5 authorize the appointment of not more than two landlord-tenant court  
6 commissioners. The landlord-tenant court commissioners shall be appointed by  
7 a landlord-tenant court judicial commission consisting of the presiding judge of  
8 the circuit, who shall be the chair, one circuit judge elected by the circuit judges,  
9 one associate circuit judge elected by the associate circuit judges of the circuit,  
10 and two members appointed by the county executive of Jackson County, each of  
11 whom shall represent one of the two political parties casting the highest number  
12 of votes at the next preceding gubernatorial election. The procedures and  
13 operations of the landlord-tenant court judicial commission shall be established  
14 by circuit court rule.

15 2. Landlord-tenant commissioners may be authorized to hear in the first  
16 instance disputes involving landlords and their tenants. Landlord-tenant  
17 commissioners shall be authorized to make findings of fact and conclusions of law,  
18 and to issue orders for the payment of money, for the giving or taking of  
19 possession of residential property and any other equitable relief necessary to  
20 resolve disputes governed by the laws in chapters 441, 524, 534, and this  
21 chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases  
22 and issue orders.

23 3. Landlord-tenant commissioners shall be licensed to practice law in this  
24 state and shall serve at the pleasure of a majority of the circuit and associate  
25 circuit judges, en banc, and shall be residents of Jackson County, and shall  
26 receive as annual compensation an amount equal to one-third of the annual

27 compensation of an associate circuit judge. Landlord-tenant commissioners shall  
28 not accept or handle cases in their practice of law which are inconsistent with  
29 their duties as a landlord-tenant commissioner and shall not be a judge or  
30 prosecutor for any other court. Landlord-tenant commissioners shall not be  
31 considered state employees and shall not be members of the state employees' or  
32 judicial retirement system or be eligible to receive any other employment benefit  
33 accorded state employees or judges.

34 4. A majority of the judges of the circuit court, en banc, shall establish  
35 operating procedures for the landlord-tenant court. Proceedings in the  
36 landlord-tenant court, shall be conducted as in cases tried before an associate  
37 circuit judge. The hearing shall be before a landlord-tenant commissioner  
38 without jury, and the commissioner shall assume an affirmative duty to  
39 determine the merits of the evidence presented and the defenses of the defendant  
40 and may question parties and witnesses. Clerks and computer personnel shall  
41 be assigned as needed for the efficient operation of the court.

42 5. The parties to a cause of action before a commissioner of the  
43 landlord-tenant court are entitled to file with the court a motion for a hearing in  
44 associate circuit court within ten days after the mailing, or within ten days after  
45 service.

46 6. Operating procedures shall be provided for electronic recording of  
47 proceedings at county expense. Any person aggrieved by a judgment in a case  
48 decided under this section shall have a right to [a trial de novo in circuit court,  
49 or] an appeal to the appropriate appellate court, in the same manner as would  
50 a person aggrieved by a decision of an associate circuit judge under section  
51 535.110. The procedures for perfecting the right of [a trial de novo or] **an** appeal  
52 shall be the same as that provided pursuant to sections 512.180 to 512.320.

53 7. Any summons issued for the proceedings in the landlord-tenant court  
54 shall have a return date of ten days from the date of service. The sheriff must  
55 attempt to serve any summons within four days of the date of issuance.

56 8. All costs to establish and operate a landlord-tenant court under this  
57 section shall be borne by Jackson County.

✓