

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1862
98TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 28, 2016, with recommendation that the Senate Committee Substitute do pass.

5060S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 534.350, 534.360, 535.030, 535.110, 535.160, and 535.300, RSMo, and to enact in lieu thereof five new sections relating to landlords and tenants.

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

Section A. Sections 534.350, 534.360, 535.030, 535.110, 535.160, and
2 535.300, RSMo, are repealed and five new sections enacted in lieu thereof, to be
3 known as sections 534.350, 535.030, 535.110, 535.160, and 535.300, to read as
4 follows:

534.350. The judge rendering judgment in any such cause may issue
2 execution at any time after judgment, but such execution shall not be levied until
3 after the expiration of the time allowed for the taking of an appeal, except [as in
4 the next succeeding section is provided:] **execution for the purpose of
5 restoring possession shall be issued no sooner than ten days after the
6 judgment. However, the execution for purposes of restoring possession
7 shall be stayed pending an appeal if the losing party posts an appeal
8 bond.**

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

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

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
39 the defendant is in default, the clerk of the court shall mail to the defendant at
40 the defendant's last known address by ordinary mail a notice informing the
41 defendant of the judgment and the date it was entered, and stating that] The
42 defendant has ten days from the date of the judgment to file a motion to set aside
43 the judgment [in the circuit court, as the case may be,] and [that] unless the

44 judgment is set aside within ten days, the judgment **for possession** will become
45 final and the defendant will be subject to eviction from the premises without
46 further notice. **On the date judgment is rendered if the defendant is in**
47 **default, the clerk of the court shall mail to the defendant at the**
48 **defendant's last known address by ordinary mail a notice informing the**
49 **defendant of the foregoing.**

535.110. Applications for appeals shall be allowed and conducted in the
2 manner provided as in other civil cases; but no application for an appeal shall
3 stay execution unless the defendant give bond, with security sufficient to secure
4 the payment of all damages, costs and rent then due, [and with condition to stay
5 waste and to pay all subsequently accruing rent, if any,] into court within ten
6 days [after it becomes due,] **after an entry of the judgment by the trial**
7 **court, all other provisions of law to the contrary not**
8 **withstanding. Additional conditions of the appeal bond shall be to stay**
9 **waste and to pay all subsequently accruing rent, if any, into court**
10 **within ten days after it becomes due, pending determination of the appeal.**
11 **Execution for the purposes of restoring possession shall be stayed**
12 **pending an appeal if the losing party posts a sufficient appeal bond.**

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 the judgment becomes final**, the
6 defendant shall satisfy such money judgment and pay all costs, any execution for
7 possession of the subject premises shall cease and be stayed; except that the
8 landlord shall not thereby be precluded from making application for appeal from
9 such money judgment. If for any reason no money judgment is entered against
10 the defendant and judgment for the plaintiff is limited only to possession of the
11 subject premises, no stay of execution shall be had, except as provided by the
12 provisions of section 535.110 or the rules of civil procedure or by agreement of the
13 parties.

535.300. 1. A landlord may not demand or receive a security deposit in
2 excess of two months' rent.

3 2. **All security deposits shall be held by the landlord for the**
4 **tenant, who is a party to the rental agreement, in a bank, credit union,**
5 **or depository institution which is insured by an agency of the federal**

6 government. Security deposits shall not be commingled with other
7 funds of the landlord. All security deposits shall be held in a trust
8 established by the landlord and deposited in a bank, credit union, or
9 depository institution account in the name of the trustee. Any interest
10 earned on a security deposit shall be the property of the landlord. A
11 landlord licensed under and subject to the requirements of chapter 339,
12 in lieu of complying with this subsection, shall maintain all tenant
13 security deposits in a bank, credit union, financial or depository
14 institution account, and shall not commingle such security deposits
15 with other funds of the landlord except as provided in section 339.105.
16 A housing authority created under section 99.040 or any other
17 government entity acting as a landlord shall not be subject to this
18 subsection.

19 3. Within thirty days after the date of termination of the tenancy, the
20 landlord shall:

21 (1) Return the full amount of the security deposit; or

22 (2) Furnish to the tenant a written itemized list of the damages for which
23 the security deposit or any portion thereof is withheld, along with the balance of
24 the security deposit. The landlord shall have complied with this subsection by
25 mailing such statement and any payment to the last known address of the tenant.

26 [3.] 4. The landlord may withhold from the security deposit only such
27 amounts as are reasonably necessary for the following reasons:

28 (1) To remedy a tenant's default in the payment of rent due to the
29 landlord, pursuant to the rental agreement;

30 (2) To restore the dwelling unit to its condition at the commencement of
31 the tenancy, ordinary wear and tear excepted; **provided, however, that this**
32 **subdivision does not preclude a landlord and tenant from agreeing, in**
33 **the rental agreement between them, upon amounts or fees to be**
34 **charged for cleaning of the carpet. At the end of the tenancy, the**
35 **landlord shall provide the tenant a receipt for the carpet cleaning;** or

36 (3) To compensate the landlord for actual damages sustained as a result
37 of the tenant's failure to give adequate notice to terminate the tenancy pursuant
38 to law or the rental agreement; provided that the landlord makes reasonable
39 efforts to mitigate damages.

40 [4.] 5. The landlord shall give the tenant or his representative reasonable
41 notice in writing at his last known address or in person of the date and time

42 when the landlord will inspect the dwelling unit following the termination of the
43 rental agreement to determine the amount of the security deposit to be withheld,
44 and the inspection shall be held at a reasonable time. The tenant shall have the
45 right to be present at the inspection of the dwelling unit at the time and date
46 scheduled by the landlord.

47 [5.] 6. If the landlord wrongfully withholds all or any portion of the
48 security deposit in violation of this section, the tenant shall recover as damages
49 [not more than] twice the amount wrongfully withheld.

50 [6.] 7. Nothing in this section shall be construed to limit the right of the
51 landlord to recover actual damages in excess of the security deposit, or to permit
52 a tenant to apply or deduct any portion of the security deposit at any time in lieu
53 of payment of rent.

54 [7.] 8. As used in this section, the term "security deposit" means any
55 deposit of money or property, however denominated, which is furnished by a
56 tenant to a landlord to secure the performance of any part of the rental
57 agreement, including damages to the dwelling unit. This term does not include
58 any money or property denominated as a deposit for a pet on the premises.

[534.360. If it shall appear to the officer having charge of
2 the execution that the defendant therein is about to remove,
3 conceal or dispose of his property, so as to hinder or delay the levy,
4 the rents and profits, damages and costs may be levied before the
5 expiration of the time allowed for taking an appeal.]

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