

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO 605

AN ACT

To repeal sections 441.233 and 535.010, RSMo, and to enact in lieu thereof three new sections relating to the removal of a tenant from a commercial property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Sections 441.233 and 535.010, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 441.233, 441.235, and 535.010, to read as follows:

441.233. 1. Except as provided in [section] sections 441.065 and 441.235, a landlord or its agent who removes or excludes a tenant or the tenant's personal property from the premises without judicial process and court order, or causes such removal or exclusion, or causes the removal of the doors or locks to such premises, shall be deemed guilty of forcible entry and detainer as described in chapter 534.

2. Any landlord or its agent who willfully diminishes services to a tenant by interrupting or causing the interruption of essential services, including but not limited to electric, gas, water, or sewer service, to the tenant or to the premises shall be deemed guilty of forcible entry and detainer as described in chapter 534; provided however, this section shall not be applicable if a landlord or its agent takes such action for health or safety reasons.

441.235. 1. For the purposes of this section, the term

"premises" means real property leased under the terms of a rental agreement for commercial or business purposes, and shall not include real property used for residential or agricultural purposes.

2. Notwithstanding the provisions of section 535.020, unless provided otherwise in the lease, if a tenant is delinquent in paying rent for a period of more than forty-five consecutive days, the landlord may place a lock or locks on the premises without judicial process and court order if the landlord:

(1) At least thirty days before reentering the premises, notifies the tenant of the default in the payment of rent due by certified mail or by posting written notice on the premises; and

(2) Mails a second notice of the tenant's default in the payment of rent due by certified mail or posts such notice on the premises fifteen days prior to reentering the property. This second notice shall include a statement that the rent on the property has been due and unpaid and that if the rent remains due and unpaid for more than forty-five consecutive days from the date of the first notice, the landlord may place a lock or locks on the premises unless the tenant pays all the rent due within ten days of the landlord mailing or posting the second notice or the tenant provides proof to the landlord by certified mail that the tenant has met the requirements of subsection 4 of this section.

3. If the tenant refuses or fails to pay rent due within ten days of the mailing or posting of the second notice required by subdivision (2) of subsection 2 of this section, the landlord shall place a lock or locks on the premises until such time that

the tenant pays in full any late rent as well as all current rent due, including contractual late fees. Upon receipt of such payment or payments, the landlord shall immediately remove the lock or locks from the premise.

4. If the tenant has failed to make timely rent payments due to alleged failures in contractual obligations of the landlord and the landlord initiates the notices provided for in this section, the tenant may place the outstanding and ongoing rent into an escrow account for the benefit of the landlord, subject to the specific unmet and earmarked contractual obligations. The tenant may withhold the release of such rent from escrow until the landlord satisfies the specified contractual obligations or the landlord obtains a court order to release the rent from escrow. Any notice pursuant to this section and the rights of the landlord to lock such premises shall be suspended until the landlord's contractual obligations are met. A tenant's failure to place all past due rent and timely ongoing rent into escrow pursuant to this subsection shall render the provisions of this subsection null and void.

535.010. In all cases in which lands and tenements are or shall be rented or leased, and default shall be made in the payment of the rents at the time or times agreed upon by the parties, it shall be lawful for the landlord to dispossess the tenant and all subtenants and recover possession of the premises rented or leased, in the manner herein provided or as provided in section 441.235.