

SECOND REGULAR SESSION

HOUSE BILL NO. 1058

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GOODMAN (Sponsor), GUEST, PEARCE, STEVENSON,
RUESTMAN, MORRIS, MYERS, VIEBROCK, SELBY AND DAUS (Co-sponsors).

Read 1st time January 13, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3630L.011

AN ACT

To repeal sections 250.140, 535.020, and 535.040, RSMo, and to enact in lieu thereof three new sections relating to remedies for tenant default on utility and rent payments.

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

Section A. Sections 250.140, 535.020, and 535.040, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 250.140, 535.020, and 535.040, to read
3 as follows:

250.140. 1. Sewerage services or water and sewerage services combined shall be
2 deemed to be furnished to [both] the occupant [and owner] of the premises receiving such service
3 and the city, town [or], village, or sewer district rendering such services shall have power to sue
4 the occupant [or owner, or both,] of such real estate in a civil action to recover any sums due for
5 such services, plus a reasonable attorney's fee to be fixed by the court.

6 2. [If the occupant of the premises receives the billing,] Any notice of termination of
7 service shall be sent to both the occupant and owner of the premises receiving such service[, if
8 such owner has requested in writing to receive any notice of termination and has provided the
9 entity rendering such service with the owner's business addresses].

535.020. Whenever any rent has become due and payable, and payment has been
2 demanded by the landlord or the landlord's agent from the lessee or person occupying the
3 premises, and payment thereof has not been made, the landlord or agent may file a statement,
4 verified by affidavit, with any associate circuit judge in the county in which the property is
5 situated, setting forth the terms on which such property was rented, and the amount of rent
6 actually due to such landlord; that the rent has been demanded from the tenant, lessee or person

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

7 occupying the premises, and that payment has not been made, and substantially describing the
8 property rented or leased. **Giving the notice provided in section 441.060, RSMo, is not**
9 **required prior to filing a statement or obtaining the relief provided in this chapter.** In such
10 case, the clerk of the court shall immediately issue a summons directed to such tenant or lessee
11 and to all persons occupying the premises, by name, requiring them to appear before the judge
12 upon a day to be therein named, and show cause why possession of the property should not be
13 restored to the plaintiff. The landlord or agent may, in such an action for unpaid rent, join a
14 claim for any other unpaid sums, other than property damages, regardless of how denominated
15 or defined in the lease, to be paid by or on behalf of a tenant to a landlord for any purpose set
16 forth in the lease; provided that such other sums shall not be considered rent for purposes of this
17 chapter, and judgment for the landlord for recovery of such other sums shall not by itself entitle
18 the landlord to an order for recovery of possession of the premises. The provisions of this
19 section providing for the filing of a statement before an associate circuit judge shall not preclude
20 adoption of a local circuit court rule providing for the centralized filing of such cases, nor the
21 assignment of such cases to particular circuit or associate circuit judges pursuant to local circuit
22 court rule or action by the presiding judge of the circuit. The case shall be heard and determined
23 under the practice and procedure provided in the Missouri rules of civil procedure, except where
24 otherwise provided by this chapter.

535.040. Upon the return of the summons executed, the judge shall set the case on the
2 first available court date **to be heard by the court without a jury** and shall proceed to hear the
3 cause, and if it shall appear that the rent which is due has been demanded of the tenant, lessee
4 or persons occupying the property, and that payment has not been made, and if the payment of
5 such rent, with all costs, shall not be tendered before the judge, on the hearing of the cause, the
6 judge shall render judgment that the landlord recover the possession of the premises so rented
7 or leased, and also the debt for the amount of the rent then due, with all court costs and shall
8 issue an execution upon such judgment, commanding the officer to put the landlord into
9 immediate possession of the property leased or rented, and to make the debt and costs of the
10 goods and chattels of the defendant. No money judgment shall be granted to the plaintiff if the
11 defendant is in default and service was by the posting procedure provided in section 535.030
12 unless the defendant otherwise enters an appearance. The officer shall deliver possession of the
13 property to the landlord within five days from the time of receiving the execution, and the officer
14 shall proceed upon the execution to collect the debt and costs, and return the writ, as in the case
15 of other executions. If the plaintiff so elects, the plaintiff may sue for possession alone, without
16 asking for recovery of the rent due.