

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 781
94TH GENERAL ASSEMBLY

Reported from the Committee on Judiciary April 17, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 781 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3109L.06C

AN ACT

To repeal sections 49.292, 441.060, 441.065, 441.233, 441.880, 482.305, 482.340, 534.090, 535.020, 535.030, 535.040, and 535.120, RSMo, and sections 317.006, 317.011, and 317.015 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780 merged with conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof sixteen new sections relating to real property, with an emergency clause for certain sections.

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

Section A. Sections 49.292, 441.060, 441.065, 441.233, 441.880, 482.305, 482.340, 534.090, 535.020, 535.030, 535.040, and 535.120, RSMo, and sections 317.006, 317.011, and 317.015 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780 merged with conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 49.292, 317.006, 317.011, 317.015, 441.060, 441.065, 441.233, 441.645, 442.558, 482.305, 482.340, 534.090, 535.020, 535.030, 535.040, and 535.120, to read as follows:

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

49.292. 1. Notwithstanding any other law to the contrary, the county commission of any county may reject the transfer of title of real property to the county by donation or dedication if the commission determines that such rejection is in the public interest of the county.

2. No transfer of title of real property to the county commission or any other political subdivision by donation or dedication authorized to be recorded in the office of the recorder of deeds shall be valid unless it has been proved or acknowledged. The preparer of the document relating to subsection 1 of this section shall not submit a document to the recorder of deeds for recording unless the acceptance thereof of the grantee named in the document has been proved or acknowledged. **No water or sewer line easement shall be construed as a transfer of title of real property under this subsection.**

317.006. 1. **No owner of real property shall lease any building, house, or apartment to any individual who sponsors, allows, or otherwise permits any amateur mixed martial arts contests on the premises unless the lessee complies with all provisions of this chapter.**

2. The division shall have general charge and supervision of all professional boxing, sparring, professional wrestling, professional kickboxing [and], professional full-contact karate **and professional and amateur mixed martial arts** contests held in the state of Missouri, and it shall have the power, and it shall be its duty:

(1) To make and publish rules governing in every particular professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests;

(2) To make and publish rules governing the approval of amateur sanctioning bodies;

(3) To accept applications for and issue licenses to contestants in professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, and referees, judges, matchmakers, managers, promoters, seconds, announcers, timekeepers and physicians involved in professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, as authorized herein. Such licenses shall be issued in accordance with rules duly adopted by the division;

(4) To charge fees to be determined by the director and established by rule for every license issued and to assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company, or association holding a promoter's license and permit under sections 317.001 to 317.021, derived from admission charges connected with or as an incident to the holding of any professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest in the state of Missouri. Such funds shall be paid to the division of professional registration which shall pay said funds into the

26 Missouri state treasury to be set apart into a fund to be known as the "Athletic Fund" which is
27 hereby established;

28 (5) To assess a tax of five percent of the gross receipts of any person, organization,
29 corporation, partnership, limited liability company or association holding a promoter's license
30 under sections 317.001 to 317.021 derived from the sale, lease or other exploitation in this state
31 of broadcasting, television, pay-per-view, closed-circuit telecast, and motion picture rights for
32 any professional boxing, sparring, professional wrestling, professional kickboxing or
33 professional full-contact karate contest. Such funds shall be paid to the division which shall pay
34 said funds into the Missouri state treasury to be set apart into a fund to be known as the "Athletic
35 Fund";

36 (6) Each cable television system operator whose pay-per-view or closed-circuit facilities
37 are utilized to telecast a bout or contest shall, within thirty calendar days following the date of
38 the telecast, file a report with the office stating the number of orders sold and the price per order.

39 [2.] 3. All fees established pursuant to sections 317.001 to 317.021 shall be determined
40 by the director by rule in such amount as to produce sufficient revenue to fund the necessary
41 expenses and operating costs incurred in the administration of the provisions of sections 317.001
42 to 317.021. All expenses shall be paid as otherwise provided by law.

317.011. 1. The division shall have the power, and it shall be its duty, to accept
2 application for and issue permits to hold professional boxing, sparring, professional wrestling,
3 professional kickboxing [or] , professional full-contact karate, **or professional and amateur**
4 **mixed martial arts** contests in the state of Missouri, and to charge a fee for the issuance of same
5 in an amount established by rule; such funds to be paid to the division which shall pay such
6 funds into the Missouri state treasury to be set apart into the athletic fund.

7 2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
8 this fund shall not be transferred and placed to the credit of general revenue until the amount in
9 the fund at the end of the biennium exceeds two times the amount of the appropriation from the
10 fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than
11 yearly then three times the appropriation from the fund for the preceding fiscal year. The
12 amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the
13 appropriate multiple of the appropriations from the fund for the preceding fiscal year.

14 3. The division shall not grant any permit to hold professional boxing, sparring,
15 professional wrestling, professional kickboxing or professional full-contact karate contests in the
16 state of Missouri except:

17 (1) Where such professional boxing, sparring, professional wrestling, professional
18 kickboxing or professional full-contact karate contest is to be held under the auspices of a
19 promoter duly licensed by the division; and

20 (2) Where a fee has been paid for such permit, in an amount established by rule; **and**
21 **(3) Where all of the contestants in any amateur or professional full-contact karate**
22 **or mixed martial arts contest are eighteen years of age or older.**

23 4. In such contests a decision shall be rendered by three judges licensed by the division,
24 **except as otherwise provided by the office by rule.**

25 5. **Except as otherwise provided herein**, specifically exempted from the provisions of
26 this chapter are contests or exhibitions for amateur boxing, amateur kickboxing, amateur
27 wrestling and amateur full-contact karate. However, all amateur boxing, amateur kickboxing,
28 amateur wrestling and amateur full-contact karate must be sanctioned by a nationally recognized
29 amateur sanctioning body approved by the office.

317.015. 1. Any person wishing to make a complaint against a licensee under sections
2 317.001 to 317.014 shall file the written complaint with the division setting forth supporting
3 details. If the division determines that the charges warrant a hearing to ascertain whether the
4 licensee shall be disciplined, it shall file a complaint with the administrative hearing commission
5 as provided in chapter 621, RSMo. Any person holding more than one license issued by the
6 division and disciplined under one license will automatically be disciplined under all licenses.

7 2. (1) The division may refuse to issue any permit or license pursuant to this chapter for
8 one or any combination of reasons stated in paragraphs (a) through (m) of subdivision (2) of this
9 subsection. The division shall notify the applicant in writing of the reasons for the refusal and
10 shall advise the applicant of their rights to file a complaint or an appeal with the administrative
11 hearing commission as provided in chapter 621, RSMo.

12 (2) The division may file a complaint with the administrative hearing commission, as
13 provided in chapter 621, RSMo, against any holder of any permit or license issued pursuant to
14 this chapter, or against any person who has failed to renew or has surrendered their permit or
15 license, for any one or more of the following reasons:

16 (a) Use of an alcoholic beverage or any controlled substance, as defined in chapter 195,
17 RSMo, before or during a bout;

18 (b) The person has been found guilty or has entered a plea of guilty or nolo contendere
19 in a criminal prosecution under any state or federal law for any offense reasonably related to the
20 qualifications, functions or duties of any profession licensed or regulated under this chapter, for
21 any offense an essential element of which is fraud, dishonesty or an act of violence, or for any
22 offense involving moral turpitude, whether or not a sentence is imposed;

23 (c) Use of fraud, deception, misrepresentation or bribery in securing any permit or
24 license issued pursuant to this chapter;

25 (d) Providing false information on applications or medical forms;

26 (e) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
27 in the performing of the functions or duties of any profession licensed or regulated by this
28 chapter;

29 (f) Violating or enabling any person to violate any provision of this chapter or any rule
30 adopted pursuant to this chapter;

31 (g) Impersonating any permit or license holder or allowing any person to use their permit
32 or license;

33 (h) Contestants failing to put forth their best effort during a bout;

34 (i) Disciplinary action against the holder of a license or other right to practice any
35 profession regulated by this chapter and issued by another state, territory, federal agency or
36 country upon grounds for which revocation or suspension is authorized in this state;

37 (j) A person adjudged mentally incompetent by a court of competent jurisdiction;

38 (k) Use of any advertisement or solicitation which is false, misleading or deceptive to
39 the general public or persons to whom the advertisement or solicitation is primarily directed;

40 (l) Use of foul or abusive language or mannerisms or threats of physical harm by any
41 person associated with any bout or contest licensed pursuant to this chapter; [or]

42 (m) Issuance of a permit or license based upon a mistake of fact; or

43 **(n) Permitting participation by a person less than eighteen years of age in an**
44 **amateur or professional full-contact karate or mixed martial arts contest in violation of**
45 **subdivision (3) of subsection 3 of section 317.011.**

46 (3) After the complaint is filed, the proceeding shall be conducted in accordance with
47 the provisions of chapter 621, RSMo. If the administrative hearing commission finds that a
48 person has violated one or more of the grounds as provided in paragraphs (a) through (m) of
49 subdivision (2) of this subsection, the division may censure or place the person named in the
50 complaint on probation on appropriate terms and conditions for a period not to exceed five years,
51 may suspend the person's license for a period not to exceed three years, or may revoke the
52 person's license.

53 3. Upon a finding that the grounds provided in subsection 2 of this section for
54 disciplinary action are met, the office may, singly or in combination, censure or place on
55 probation on such terms and conditions as the office deems appropriate for a period not to exceed
56 five years, or may suspend for a period not to exceed three years or revoke the certificate, license,
57 or permit. In any order of revocation, the office may provide that the person shall not apply for
58 a new license for a maximum of three years and one day following the date of the order of
59 revocation. All stay orders shall toll the disciplinary time periods allotted herein. In lieu of or
60 in addition to any remedy specifically provided in subsection 1 of this section, the office may
61 require of a licensee:

62 (1) Satisfactory completion of medical testing and/or rehabilitation programs as the
63 office may specify; and/or

64 (2) A review conducted as the office may specify and satisfactory completion of medical
65 testing and/or rehabilitation programs as the office may specify.

441.060. 1. A tenancy at will or by sufferance, or for less than one year, may be
2 terminated by the person entitled to the possession by giving one month's notice, in writing, to
3 the person in possession, requiring the person in possession to vacate the premises.

4 2. An occupancy limitation of two persons per bedroom residing in a dwelling unit shall
5 be presumed reasonable for this state. The two-person limitation shall not apply to a child or
6 children born to the tenants during the course of the lease.

7 3. Except as otherwise provided by law, all contracts or agreements for the leasing,
8 renting or occupation of stores, shops, houses, tenements or other buildings in cities, towns or
9 villages, and of stores, shops, houses, tenements or other buildings except when such leasing,
10 renting or occupation is as tenant of real estate used or rented for agricultural purposes, other
11 than garden purposes, not made in writing, signed by the parties thereto, or their agents, shall be
12 held and taken to be tenancies from month to month, and all such tenancies may be terminated
13 by either party thereto, or the party's agent, giving to the other party, or the party's agent, one
14 month's notice, in writing, of the party's intention to terminate such tenancy.

15 4. (1) Except as provided in subdivision (2), the landlord or the tenant may terminate
16 a month-to-month tenancy by a written notice given to the other party stating that the tenancy
17 shall terminate upon a periodic rent-paying date not less than one month after the receipt of the
18 notice.

19 (2) When a person occupies and has an ownership interest in a mobile home and is
20 leasing the land or the lot upon which the mobile home is located, a tenancy for less than one
21 year may be terminated by the landlord by giving written notice to the tenant that the tenancy
22 shall terminate not sooner than sixty days from the date the rent payment next becomes due,
23 notwithstanding any written lease provision regarding earlier lease termination to the contrary.

24 5. If after the rendition of a judgment and a request for an execution on any judgment
25 rendered in an action pursuant to chapter 524, RSMo, chapter 534, RSMo, chapter 535, RSMo,
26 or this chapter and there is no stay of execution, the service officer fails to deliver possession of
27 the premises to the landlord within [seven] **three** days of the delivery of the writ to such officer,
28 the landlord may, within sixty days of the date of the judgment, in the presence of a municipal
29 or county law enforcement officer of the jurisdiction in which the premises are located, without
30 breach of the peace, break and remove locks, enter and take possession of the premises and
31 remove any household goods, furnishings, fixtures or any other personal property left in or at the
32 premises, provided the law enforcement officer is first presented a true copy of the judgment and

33 order of execution, and the law enforcement officer acknowledges in writing such presentation,
34 and such acknowledgment is filed in court by the plaintiff within [five] **three** days following
35 taking possession of the premises.

36 6. Except for negligent, willful or wanton acts or omissions of the landlord, or failure
37 to both timely obtain and file the law enforcement officer acknowledgment described in the
38 preceding subsection, the landlord shall have no liability for loss or damage to any household
39 goods, furnishings, fixtures or any other personal property left in or at the dwelling unit, by
40 reason of the landlord's removal of the property in accordance with the provisions of this section.

441.065. **1.** Any property of a tenant remaining in or at the premises, after the tenant
2 abandons the premises, may be removed or disposed of by the landlord without liability to the
3 tenant for such removal or disposition. The premises shall be deemed abandoned if:

4 (1) The landlord has a reasonable belief that the tenant has vacated the premises and
5 intends not to return;

6 (2) The rent is due and has been unpaid for [thirty] **fifteen** days; and

7 (3) The landlord posts written notice on the premises and mails to the last known address
8 of the tenant by both first class mail and certified mail, return receipt requested, a notice of the
9 landlord's belief of abandonment. The notice shall include the following, where appropriate:
10 "The rent on this property has been due and unpaid for [thirty] **fifteen** consecutive days and the
11 landlord believes that you have moved out and abandoned the property. The landlord may
12 declare this property abandoned and remove your possessions from this unit and dispose of them
13 unless you write to the landlord stating that you have not abandoned this unit within [ten] **five**
14 days of the landlord having both posted this notice on your door and mailing this notice to you.
15 You should mail your statement by regular first class mail and[, if you so choose,] by certified
16 mail, return receipt requested, **or other receipted delivery** to this address (here
17 insert landlord's name and street address)"; and

18 (4) The tenant fails to either pay rent or respond [in writing] **by certified mail** to the
19 landlord's notice within [ten] **five** days after both the date of the posting and deposit of such
20 notice by either first class mail or certified mail, return receipt requested, **or other receipted**
21 **delivery** stating the tenant's intention not to abandon the premises.

22 **2. The provisions of this section shall be applicable to any time a landlord has a**
23 **reasonable belief that the property has been abandoned including any time prior to,**
24 **during, or after the initiation of a chapter 535 action or judgment.**

441.233. [1.] Except as provided in section 441.065, a landlord or its agent who
2 removes or excludes a tenant or the tenant's personal property from the premises without judicial
3 process and court order, or causes such removal or exclusion, or causes the removal of the doors

4 or locks to such premises, shall be deemed guilty of forcible entry and detainer as described in
5 chapter 534, RSMo.

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

**441.645. If a residence is destroyed by an act of God, including but not limited to
2 fire or a tornado, or other natural disaster or man-made disaster, so long as the tenant was
3 not the person who caused the disaster, the tenant shall not be liable to the landlord for
4 rent during the remainder of the term of the lease agreement. Nothing herein shall limit
5 the ability of a tenant and landlord from entering into a contract which is different than
6 this section.**

442.558. 1. As used in this section, the following terms shall mean:

2 (1) "Transfer", the sale, gift, conveyance, assignment, inheritance, or other transfer
3 of ownership interest in real property located in this state;

4 (2) "Transfer fee", a fee or charge payable upon the transfer of an interest in real
5 property, or payable for the right to make or accept such transfer, regardless of whether
6 the fee or charge is a fixed amount or is determined as a percentage of the value of the
7 property, the purchase price, or other consideration given for the transfer. Transfer fee
8 shall not include the following:

9 (a) Any consideration payable by the grantee to the grantor for the interest in real
10 property being transferred;

11 (b) Any commission payable to a licensed real estate broker for the transfer of real
12 property under an agreement between the broker and the grantor or the grantee;

13 (c) Any interest, charges, fees, or other amounts payable by a borrower to a lender
14 under a loan secured by a mortgage against real property, including but not limited to any
15 fee payable to the lender for consenting to an assumption of the loan or a transfer of the
16 real property subject to the mortgage, any fees or charges payable to the lender for
17 estoppel letters or certificates, and any other consideration allowed by law and payable to
18 the lender in connection with the loan;

19 (d) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to
20 a lessor under a lease, including but not limited to any fee payable to the lessor for
21 consenting to an assignment, subletting, encumbrance, or transfer of the lease;

22 (e) Any consideration payable to the holder of an option to purchase an interest in
23 real property or the holder of a right of first refusal or first offer to purchase an interest

24 in real property for waiving, releasing, or not exercising the option or right upon the
 25 transfer of the property to another person;

26 (f) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed
 27 by a governmental authority;

28 (3) "Transfer fee covenant", a declaration or covenant purporting to affect real
 29 property which requires or purports to require the payment of a transfer fee to the
 30 declarant or other person specified in the declaration or covenant or to their successors or
 31 assigns upon a subsequent transfer of an interest in the real property.

32 2. A transfer fee covenant recorded in this state on or after September 1, 2008, shall
 33 not run with the title to real property and is not binding on or enforceable at law or in
 34 equity against any subsequent owner, purchaser, or mortgagee of any interest in real
 35 property as an equitable servitude or otherwise. Any lien purporting to secure the
 36 payment of a transfer fee under a transfer fee covenant recorded in this state on or after
 37 September 1, 2008, is void and unenforceable.

482.305. When sitting as a small claims court, the judge shall have original jurisdiction
 2 of all civil cases, whether tort or contract, where the amount in controversy does not exceed three
 3 thousand dollars, exclusive of interest or costs, or as provided in this chapter, **or for a claim by**
 4 **a landlord for ejectment of a tenant for the purpose of obtaining possession of a premises.**

482.340. 1. An action on a small claim may be commenced by filing with the clerk of
 2 the small claims court a form substantially similar to the petition form provided in this section.
 3 Petition forms shall be provided by the clerk of the small claims court free of charge to any
 4 person:

SMALL CLAIMS COURT

In the Circuit Court of, Missouri

7 Plaintiff)

Case number

8 vs

Amount claimed.....

9 Defendant)

Return date

PETITION

11 The plaintiff states that he has a claim against the defendant in the amount of \$..... **or**
 12 **for the ejectment of a tenant for the purpose of obtaining possession of a premises.** The
 13 claim arose on or about, [19] 20...., as a result of the following events: Defendant can be
 14 found at, Telephone No. Plaintiff can be found at, Telephone No.

15 The plaintiff states that the allegations of this complaint are true and correct to the best
 16 of his **or her** knowledge, that he **or she** is not an assignee of this claim and that he **or she** has
 17 not filed more than three other claims in the Missouri small claims courts during the current
 18 calendar year. Plaintiff understands that should he **or she** be successful in this action and obtain

19 a judgment, and if defendant does not appeal and this judgment becomes final, the plaintiff is
20 barred from commencing another action involving the same parties and issues. PLAINTIFF
21 UNDERSTANDS THAT HE **OR SHE** IS HEREBY WAIVING HIS **OR HER** RIGHT TO
22 JURY TRIAL ON THESE ISSUES IN THE SMALL CLAIMS COURT.

23
24 (Plaintiff)

25 2. The summons in a small claims action shall be made in a form substantially similar
26 to the form below:

27 SUMMONS TO EACH OF THE ABOVE NAMED DEFENDANTS:

28 YOU ARE SUMMONED AND REQUIRED TO APPEAR IN PERSON IN ROOM ...
29 OF THE BUILDING LOCATED AT ON, 19..., AT THE HOUR OF

30 IF YOU FAIL TO APPEAR, A JUDGMENT MAY BE ENTERED AGAINST YOU
31 FOR THE AMOUNT ASKED IN THE PETITION, **IF ANY**, BUT NOT TO EXCEED \$1,000
32 PLUS INTEREST AND COSTS. THIS ACTION HAS BEEN FILED UNDER THE SMALL
33 CLAIMS COURT ACT. RULES OF EVIDENCE DO NOT APPLY AND YOU MAY
34 DEFEND THIS ACTION WITH OR WITHOUT THE ASSISTANCE OF AN ATTORNEY.

35
36
37 (Clerk of the Court)

38 3. A copy of the petition shall be attached to the summons. Instructions to the defendant
39 in substantially the following form shall accompany the summons.

40 INSTRUCTIONS TO DEFENDANT

41 1. If you do not wish to oppose plaintiff's claim you may:

42 (1) Contact plaintiff and make an out-of-court settlement with the plaintiff
43 before the hearing date and file with the clerk of the court a dismissal of the case
44 signed by the plaintiff, or

45 (2) Make no appearance at the hearing. In that case the plaintiff may be given
46 a default judgment against you.

47 2. If you wish to oppose the claim:

48 (1) You must appear on the date and at the time set for hearing.

49 (2) You should bring with you all books, papers, witnesses, and evidence you
50 have to establish your defense.

51 (3) At your request the clerk will issue a subpoena for any witness you may need
52 (you must order the subpoena as soon as possible and before the hearing date).

53 3. If you have a claim against the plaintiff, it is a counterclaim. If you desire to
54 file a counterclaim, then:

55 (1) You must file your counterclaim with the court within ten days after you
56 receive this summons.

57 (2) To do this you must personally appear before the clerk of the court.

58 (3) The clerk will assist you in preparing the counterclaim.

59 4. If you are a member of the armed services of the United States, please advise
60 the court immediately upon receipt of this summons.

61 5. Rules of evidence do not apply and you may defend this action with or
62 without the assistance of an attorney.

63 6. A pamphlet explaining the small claims court is enclosed.

64 4. Copies of all forms and procedures applicable to small claims shall be available to any
65 person from the clerk of the small claims court without charge.

534.090. 1. Such summons shall be served as in other civil cases at least four days
2 before the court date specified in such summons.

3 2. If the summons in such action cannot be served in the ordinary manner as provided
4 by law, it shall be the duty of the judge before whom the proceeding is commenced, at the
5 request of the plaintiff, to make an order directing that notices shall be set up for [ten] **three** days
6 on the premises in question and in one public place in the county where the defendant was
7 believed to dwell, informing the defendant of the commencement of the proceedings against the
8 defendant and to make an order directing that a copy of the summons be delivered to the
9 defendant at the defendant's last known address by ordinary mail **and by certified mail return**
10 **receipt requested or other receipted delivery**. If the officer, or other person empowered to
11 execute the summons, shall return that the defendant is not found, or that the defendant has
12 absconded or vacated his or her usual place of abode in this state, and if proof be made by
13 affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge
14 shall proceed to hear the case as if there had been personal service, and judgment shall be
15 rendered and proceedings had as in other cases, except that where the defendant is in default no
16 money judgment shall be granted the plaintiff under the order of publication and [ordinary] mail
17 procedure set forth in this section. If such summons is returned executed, then the judge shall
18 set the case on the next available court date.

535.020. 1. 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
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 required
9 prior to filing a statement or obtaining the relief provided in this chapter. In such case, the clerk
10 of the court shall immediately issue a summons directed to such tenant or lessee and to all
11 persons occupying the premises, by name, requiring them to appear before the judge upon a day
12 to be therein named, and show cause why possession of the property should not be restored to
13 the plaintiff. The landlord or agent may, in such an action for unpaid rent, join a claim for any
14 other unpaid sums, other than property damages, regardless of how denominated or defined in
15 the lease, to be paid by or on behalf of a tenant to a landlord for any purpose set forth in the
16 lease; provided that such other sums shall not be considered rent for purposes of this chapter, and
17 judgment for the landlord for recovery of such other sums shall not by itself entitle the landlord
18 to an order for recovery of possession of the premises. **The court shall adopt a local court rule**
19 **providing for the centralized filing of such cases and shall provide that such cases may be**
20 **filed at any time that the court is open and shall require that such cases be recorded and**
21 **scheduled to be heard no later than thirty days after the date of filing.** The provisions of
22 this section providing for the filing of a statement before an associate circuit judge shall not
23 preclude [adoption of a local circuit court rule providing for the centralized filing of such cases,
24 nor] the assignment of such cases to particular circuit or associate circuit judges pursuant to local
25 circuit court rule or action by the presiding judge of the circuit. The case shall be heard and
26 determined under the practice and procedure provided in the Missouri rules of civil procedure,
27 except where otherwise provided by this chapter.

28 **2. The filing of a statement, verified by affidavit as provided for in subsection 1 of**
29 **this section shall be prima facie evidence that the rent has not been paid and the burden**
30 **of proof shall be on the tenant to produce proof of payment. If the tenant fails to produce**
31 **such proof on or before the date of the hearing, the court shall find in favor of the landlord**
32 **or landlord's agent.**

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

6 2. In addition to attempted personal service, the plaintiff may request, and thereupon the
7 clerk of the court shall make an order directing that the officer, or other person empowered to
8 execute the summons, shall also serve the same by securely affixing a copy of such summons and
9 the complaint in a conspicuous place on the dwelling of the premises in question at least [ten]
10 **three** days before the court date in such summons, and by also mailing a copy of the summons
11 and complaint to the defendant at the defendant's last known address by ordinary mail, **and**

12 **certified mail return receipt requested or other receipted delivery**, at least [ten] **three** days
13 before the court date. If the officer, or other person empowered to execute the summons, shall
14 return that the defendant is not found, or that the defendant has absconded or vacated his or her
15 usual place of abode in this state, and if proof be made by affidavit of the posting and of the
16 mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff
17 proceed to hear the case as if there had been personal service, and judgment shall be rendered
18 and proceedings had as in other cases, except that no money judgment shall be granted the
19 plaintiff where the defendant is in default and service is by the posting and mailing procedure
20 set forth in this section. **A return of a receipted delivery returned unable to deliver shall**
21 **serve as proof of service. If possession is granted in favor of the owner, the owner has the**
22 **right to enter and dispose of any personal property left within the dwelling after three**
23 **business days of taking possession of the premises.**

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

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

535.040. 1. Upon the return of the summons executed, the judge shall set the case [on
2 the first available court date and] **as soon as practicable, but in no event shall such court date**

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

18 **2. Neither the landlord, nor his or her successors, assigns, agents, nor**
19 **representatives shall be liable to any tenant or subtenant for loss or damage to any**
20 **household goods, furnishings, fixtures, or any other personal property left in or at the**
21 **dwelling by the tenant or subtenant of such dwelling, by the reason of the landlord's**
22 **removal or disposal of the property under a court-ordered execution for possession of the**
23 **premises.**

24 **3. Notwithstanding the provisions of subsection 2 of this section, if, after the sheriff**
25 **has completed the court-ordered execution, property is left by the tenant in or at the**
26 **dwelling bearing a conspicuous permanent label or marking identifying it as the property**
27 **of a third party, the landlord shall make a reasonable effort to notify such third party, who**
28 **shall be given an opportunity to recover such property within five business days of the date**
29 **such notice is received. If the landlord is unable to notify the third party after reasonable**
30 **efforts have been made, the landlord may remove or dispose of such property and shall**
31 **incur no liability for any loss or damage thereto.**

535.120. Whenever [a half year's] **one month's** rent or more is in arrear from a tenant,
2 the landlord, if he has a subsisting right by law to reenter for the nonpayment of such rent, may
3 bring an action to recover the possession of the demised premises.

[441.880. 1. Upon application of a person subject to removal or eviction,
2 the court shall stay execution of an order for removal or eviction if the movant
3 establishes and the court finds all of the following:

4 (1) The person is a drug user and drug dependent, and will promptly enter
5 a court-approved drug treatment program, or the tenant did not aid or assist in the
6 drug-related criminal activity;

7 (2) The activity which is the subject of the action did not occur within
8 one thousand feet of a school or did not involve the sale or distribution of drugs
9 to minors;

10 (3) A weapon or firearm was not used or possessed in connection with
11 the activity that is the subject of the action;

12 (4) The court has not or will not issue a protective order pursuant to
13 section 441.820;

14 (5) The movant has not previously received a stay of execution for cause
15 brought pursuant to sections 441.710 to 441.880; and

16 (6) The stay of execution will not endanger the safety, health or
17 well-being of the surrounding community or the plaintiff.

18 2. The plaintiff, or any interested party who submits a written request to
19 the court to be notified of an application for a stay of execution, shall be provided
20 reasonable notice of, and an opportunity to be heard at, all hearings relating to a
21 stay of execution sought pursuant to this section.

22 3. If the court stays execution of a removal or eviction order pursuant to
23 subsection 1 of this section, then the court shall place the movant on probationary
24 tenancy. The period of probationary tenancy shall last either six months or for
25 the duration of the lease agreement between the landlord and the tenant,
26 whichever is shorter. The court may impose or modify such terms and conditions
27 of probationary tenancy as are necessary to further the purposes of sections
28 441.710 to 441.880 or to protect the safety, health or well-being of the
29 surrounding community or the parties. If a defendant is determined by the court
30 to be a drug user and drug dependent, the terms and conditions of probationary
31 tenancy may include, but are not limited to, the periodic drug testing of the
32 defendant, a program of reasonable community service and prompt entry into and
33 participation in a court-approved drug treatment program.

34 4. Following a motion by the plaintiff alleging defendant's
35 noncompliance with the terms and conditions of probationary tenancy, and a
36 five-day written notice served on the defendant specifying the time and place of
37 the hearing and the particulars of the alleged noncompliance, the court may
38 conduct a hearing on the motion. If the defendant is found by the court to have
39 materially failed to comply with any terms or conditions of probationary tenancy,
40 then the court shall immediately rescind the stay of execution. Any hearing held
41 pursuant to this section shall be expedited and shall be held within five days of
42 the court certification of service of the written notice on the defendant.

43 5. Nothing in sections 441.710 to 441.880 shall impair the right of a party
44 to seek the eviction or removal of a tenant or person for conduct occurring
45 subsequent to the events giving rise to the initial cause of action, and sections

46 441.710 to 441.880 shall not impair the right of a landlord to refuse to extend or
47 renew a lease or tenancy pursuant to existing law.

48 6. Following a motion by the defendant alleging that the defendant has
49 substantially complied with the terms and conditions of probation and that the
50 defendant no longer poses a risk to the safety, health or well-being of the
51 surrounding community or parties, and a five-day written notice served on the
52 plaintiff specifying the time and place of the hearing and the particulars of the
53 motion, the court may conduct a hearing on the motion. Upon finding sufficient
54 evidence to support the motion, the court shall discharge the order of eviction or
55 removal and shall dismiss the cause of action. The order of eviction or removal
56 shall automatically be deemed discharged and the cause of action automatically
57 deemed dismissed upon expiration of the term of probationary tenancy.]
58

Section B. Because immediate action is necessary to protect young children within
2 Missouri from potentially serious injury, sections 317.006, 317.011, and 317.015 of this act are
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
4 and is hereby declared to be an emergency act within the meaning of the constitution, and
5 sections 317.006, 317.011, and 317.015 shall be in full force and effect upon passage and
6 approval.

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