

SECOND REGULAR SESSION

HOUSE BILL NO. 2381

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), BRANDOM, RUESTMAN, FISHER,
WOOD, WASSON, SCHNEIDER, COOPER (120), BRUNS, DAUS, SCHOELLER,
NASHEED AND GUEST (Co-sponsors).

Read 1st time March 10, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5179L.01I

AN ACT

To repeal sections 250.140, 441.065, 441.233, 534.090, 535.030, 535.040, and 535.120, RSMo,
and to enact in lieu thereof nine new sections relating to landlord-tenant actions.

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

Section A. Sections 250.140, 441.065, 441.233, 534.090, 535.030, 535.040, and
2 535.120, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as
3 sections 71.515, 250.140, 393.107, 441.065, 441.233, 534.090, 535.030, 535.040, and 535.120,
4 to read as follows:

**71.515. No city, town, or village in this state supplying an occupant of a premises
2 utility services shall hold an owner of such premises liable for the delinquent payment of
3 such utilities of the occupant. Such city, town, or village rendering such utility services
4 may sue the occupant that received such services in such premises in a civil suit to recover
5 any sums owed for such services, plus a reasonable attorney's fee to be fixed by the court.**

250.140. 1. Sewerage services, water services, or water and sewerage services combined
2 shall be deemed to be furnished to [both] the occupant [and owner] of the premises receiving
3 such service and[, except as otherwise provided in subsection 2 of this section,] the city, town,
4 village, or sewer district or water supply district organized and incorporated under chapter 247,
5 RSMo, rendering such services shall have power to sue the occupant [or owner, or both,] of such
6 real estate in a civil action to recover any sums due for such services less any deposit that is held

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.

7 by the city, town, village, or sewer district or water supply district organized and incorporated
8 under chapter 247, RSMo, for such services, plus a reasonable attorney's fee to be fixed by the
9 court.

10 2. [When the occupant is delinquent in payment for thirty days, the city, town, village,
11 sewer district, or water supply district shall make a good faith effort to notify the owner of the
12 premises receiving such service of the delinquency and the amount thereof. Notwithstanding any
13 other provision of this section to the contrary, when an occupant is delinquent more than ninety
14 days, the owner shall not be liable for sums due for more than ninety days of service; provided,
15 however, that in any city not within a county and any home rule city with more than four hundred
16 thousand inhabitants and located in more than one county, until January 1, 2007, when an
17 occupant is delinquent more than one hundred twenty days the owner shall not be liable for sums
18 due for more than one hundred twenty days of service, and after January 1, 2007, when an
19 occupant is delinquent more than ninety days the owner shall not be liable for sums due for more
20 than ninety days. Any notice of termination of service shall be sent to both the occupant and
21 owner of the premises receiving such service.

22 3. The provisions of this section shall apply only to residences that have their own
23 private water and sewer lines. In instances where several residences share a common water or
24 sewer line, the owner of the real property upon which the residences sit shall be liable for water
25 and sewer expenses.

26 4.] Notwithstanding any other provision of law to the contrary, any water provider who
27 terminates service due to delinquency of payment by a consumer shall not be liable for any civil
28 or criminal damages.

29 [5.] 3. The provisions of this section shall not apply to unapplied-for utility services. As
30 used in this subsection, "unapplied-for utility services" means services requiring application by
31 the property owner and acceptance of such application by the utility prior to the establishment
32 of an account. The property owner is billed directly for the services provided, and as a result,
33 any delinquent payment of a bill becomes the responsibility of the property owner rather than the
34 occupant.

**393.107. No utility company in this state supplying an occupant utility services shall
2 hold an owner of such premises liable for delinquent payment of such utilities of the
3 occupant. Such utility rendering such utility service may sue the occupant that received
4 such services in such premises in a civil suit to recover any sums owed for such services,
5 plus a reasonable attorney's fee to be fixed by the court. As used in this section "utility
6 company" shall include any public or private electrical corporation, gas corporation,
7 heating company, water corporation, cable television service, telecommunications service,
8 or any other similar corporation, company, or service in this state.**

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

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

(2) The rent is due and has been unpaid for thirty days; and

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

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

441.233. [1.] Except as provided in section 441.065, 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, RSMo.

[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, RSMo; provided however, this section shall not be applicable if a landlord or its agent takes such action for health or safety reasons.]

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

2. If the summons in such action cannot be served in the ordinary manner as provided by law, it shall be the duty of the judge before whom the proceeding is commenced, at the request of the plaintiff, to make an order directing that notices shall be set up for ten days on the

6 premises in question and in one public place in the county where the defendant was believed to
7 dwell, informing the defendant of the commencement of the proceedings against the defendant
8 [and to make an order directing that a copy of the summons be delivered to the defendant at the
9 defendant's last known address by ordinary mail]. If the officer, or other person empowered to
10 execute the summons, shall return that the defendant is not found, or that the defendant has
11 absconded or vacated his or her usual place of abode in this state, and if proof be made by
12 affidavit of the posting [and of the mailing] of a copy of the summons and complaint, the judge
13 shall proceed to hear the case as if there had been personal service, and judgment shall be
14 rendered and proceedings had as in other cases, except that where the defendant is in default no
15 money judgment shall be granted the plaintiff under the order of publication [and ordinary mail]
16 procedure set forth in this section. If such summons is returned executed, then the judge shall
17 set the case on the next available court date.

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 business days from the date the summons is issued unless at the time
4 of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

5 2. In addition to attempted personal service, the plaintiff may request, and thereupon the
6 clerk of the court shall make an order directing that the officer, or other person empowered to
7 execute the summons, shall also serve the same by securely affixing a copy of such summons and
8 the complaint in a conspicuous place on the dwelling of the premises in question at least ten days
9 before the court date in such summons[, and by also mailing a copy of the summons and
10 complaint to the defendant at the defendant's last known address by ordinary mail at least ten
11 days before the court date]. If the officer, or other person empowered to execute the summons,
12 shall return that the defendant is not found, or that the defendant has absconded or vacated his
13 or her usual place of abode in this state, and if proof be made by affidavit of the posting [and of
14 the mailing] of a copy of the summons and complaint, the judge shall at the request of the
15 plaintiff proceed to hear the case as if there had been personal service, and judgment shall be
16 rendered and proceedings had as in other cases, except that no money judgment shall be granted
17 the plaintiff where the defendant is in default and service is by the posting and mailing procedure
18 set forth in this section.

19 3. If the plaintiff does not request service of the original summons by posting [and
20 mailing] as provided in subsection 2 of this section, and if the officer, or other person
21 empowered to execute the summons, makes return that the defendant is not found, or that the
22 defendant has absconded or vacated the defendant's usual place of abode in this state, the
23 plaintiff may request the issuance of an alias summons and service of the same by posting [and
24 mailing] in the time and manner provided in subsection 2 of this section. In addition, the

25 plaintiff or an agent of the plaintiff who is at least eighteen years of age may serve the summons
26 by posting [and mailing] a copy of the summons in the time and manner provided in subsection
27 2 of this section. Upon proof by affidavit of the posting [and of the mailing] of a copy of the
28 summons or alias summons and the complaint, the judge shall proceed to hear the case as if there
29 had been personal service, and judgment shall be rendered and proceedings had as in other cases,
30 except that no money judgment shall be granted the plaintiff where the defendant is in default
31 and service is by the posting and mailing procedure provided in subsection 2 of this section.

32 4. On the date judgment is rendered as provided in this section where the defendant is
33 in default, the clerk of the court shall mail to the defendant at the defendant's last known address
34 by certified mail, with a request for return receipt and with directions to deliver to the addressee
35 only, a notice informing the defendant of the judgment and the date it was entered, and stating
36 that the defendant has ten days from the date of the judgment to file a motion to set aside the
37 judgment or to file an application for a trial de novo in the circuit court, as the case may be, and
38 that unless the judgment is set aside or an application for a trial de novo is filed within ten days,
39 the judgment will become final and the defendant will be subject to eviction from the premises
40 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 shall proceed to hear the cause, and if it shall appear that the rent
3 which is due has been demanded of the tenant, lessee or persons occupying the property, and that
4 payment has not been made, and if the payment of such rent, with all costs, shall not be tendered
5 before the judge, on the hearing of the cause, the judge shall render judgment that the landlord
6 recover the possession of the premises so rented or leased, and also the debt for the amount of
7 the rent then due, with all court costs and shall issue an execution upon such judgment,
8 commanding the officer to put the landlord into immediate possession of the property leased or
9 rented, and to make the debt and costs of the goods and chattels of the defendant. No money
10 judgment shall be granted to the plaintiff if the defendant is in default and service was by the
11 posting procedure provided in section 535.030 unless the defendant otherwise enters an
12 appearance. The officer shall deliver possession of the property to the landlord within five days
13 from the time of receiving the execution, and the officer shall proceed upon the execution to
14 collect the debt and costs, and return the writ, as in the case of other executions. If the plaintiff
15 so elects, the plaintiff may sue for possession alone, without asking for recovery of the rent due.

16 **2. Except for willful, wanton, or malicious acts or omissions, neither the landlord,**
17 **nor his or her successors, assigns, agents, nor representatives shall be liable to any tenant**
18 **or subtenant for loss or damage to any household goods, furnishings, fixtures, or any other**
19 **personal property left in or at the dwelling by the tenant or subtenant of such dwelling, by**

20 the reason of the landlord's removal or disposal of the property under a court-ordered
21 execution for possession of the premises.

22 **3. Notwithstanding the provisions of subsection 2 of this section, if, after the sheriff**
23 **has completed the court-ordered execution, property is left by the tenant in or at the**
24 **dwelling bearing a conspicuous permanent label or marking identifying it as the property**
25 **of a third party, the landlord shall make a reasonable effort to notify such third party, who**
26 **shall be given an opportunity to recover such property within five business days of the date**
27 **such notice is received. If the landlord is unable to notify the third party after reasonable**
28 **efforts have been made, the landlord may remove or dispose of such property and shall**
29 **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.

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