

SECOND REGULAR SESSION

# HOUSE BILL NO. 1908

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ROWLAND.

4678L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 441.060, 441.065, 534.070, 534.090, 535.030, 535.110, and 535.160, RSMo, and to enact in lieu thereof seven new sections relating to landlord-tenant actions.

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

Section A. Sections 441.060, 441.065, 534.070, 534.090, 535.030, 535.110, and  
2 535.160, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as  
3 sections 441.060, 441.065, 534.070, 534.090, 535.030, 535.110, and 535.160, to read as follows:

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

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.

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, chapter 534, chapter 535, or this chapter and there  
26 is no stay of execution, the service officer fails to deliver possession of the premises to the  
27 landlord within seven days of the delivery of the writ to such officer, the landlord may, within  
28 [sixty] **thirty** days of the date of the judgment, in the presence of a municipal or county law  
29 enforcement officer of the jurisdiction in which the premises are located, without breach of the  
30 peace, break and remove locks, enter and take possession of the premises and remove any  
31 household goods, furnishings, fixtures or any other personal property left in or at the premises,  
32 provided the law enforcement officer is first presented a true copy of the judgment and order of  
33 execution, and the law enforcement officer acknowledges in writing such presentation, and such  
34 acknowledgment is filed in court by the plaintiff within five days following taking possession  
35 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. 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 days; and

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

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

534.070. 1. When complaint to the circuit court of the proper county shall be made in  
2 writing, signed by the party aggrieved, his agent or attorney, and sworn to, specifying the lands,  
3 tenements or other possessions so forcibly entered and detained, or unlawfully detained, and by  
4 whom and when done, it shall be the duty of the clerk of the court to issue a summons directed  
5 to the sheriff or proper officer of the county, commanding him to summon the person against  
6 whom the complaint shall have been made to appear, at a day in such summons to be specified.

7 2. A court date shall be assigned at the time the summons is issued. The court date shall  
8 be for a day certain which is not more than [twenty-one] **fourteen** business days from the date  
9 the summons is issued unless, at the time the case is filed, the plaintiff or plaintiff's attorney  
10 consents in writing to a later date.

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 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 ordinary mail a notice informing the defendant of the judgment and the date it was entered,

35 and stating that the defendant has ten days from the date of the judgment to file a motion to set  
36 aside the judgment or to file an application for a trial de novo in the circuit court, as the case may  
37 be, and that unless the judgment is set aside or an application for a trial de novo is filed within  
38 ten days, the judgment will become final and the defendant will be subject to eviction from the  
39 premises without further notice.

535.110. Applications for trials de novo and appeals shall be allowed and conducted in  
2 the manner provided in chapter 512; but no application for a trial de novo or appeal shall stay  
3 execution unless the defendant give bond, with security sufficient to secure the payment of all  
4 damages, costs and rent then due, and with condition to stay waste and to pay all subsequently  
5 accruing rent, if any, into court within [ten] **three** days after it becomes due, pending  
6 determination of the trial de novo or appeal.

535.160. **1. After a money judgment has been entered in favor of the plaintiff, the**  
2 **defendant shall pay such moneys within five days of such judgment with certified funds.**  
3 If the defendant, on the date any money judgment is given in any action pursuant to this chapter,  
4 either tenders to the landlord, or brings into the court where the suit is pending, all the rent then  
5 in arrears, and all the costs, further proceedings in the action shall cease and be stayed. If on any  
6 date after the date of any original trial [but before any trial de novo] the defendant shall satisfy  
7 such money judgment and pay all costs, any execution for possession of the subject premises  
8 shall cease and be stayed; except that the landlord shall not thereby be precluded from making  
9 application for appeal from such money judgment. If for any reason no money judgment is  
10 entered against 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 provisions of  
12 section 535.110 or the rules of civil procedure or by agreement of the parties.

13 **2. If the landlord prevails in such action:**

14 **(1) The tenant shall pay attorney fees approved by the court that were incurred by**  
15 **the landlord for proceedings against the tenant; and**

16 **(2) The landlord may be compensated, in an amount determined by the court, for**  
17 **loss of income during the time of the eviction.**

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