

SECOND REGULAR SESSION

HOUSE BILL NO. 1862

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CROSS.

5060H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 534.350, 534.360, 535.030, 535.110, 535.160, and 535.300, RSMo, and to enact in lieu thereof five new sections relating to landlords and tenants.

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

Section A. Sections 534.350, 534.360, 535.030, 535.110, 535.160, and 535.300, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 534.350, 535.030, 535.110, 535.160, and 535.300, to read as follows:

534.350. The judge rendering judgment in any such cause may issue execution at any time after judgment, but such execution shall not be levied until after the expiration of the time allowed for the taking of an appeal, except [as in the next succeeding section is provided]:

(1) Execution for the purpose of restoring possession shall be issued no later than ten days after the judgment. However, the execution for purposes of restoring possession shall be stayed pending an appeal if the losing party posts an appeal bond; and

(2) If it shall appear to the officer having charge of the execution that the defendant therein is about to remove, conceal, or dispose of his or her property, so as to hinder or delay the levy, the rents and profits, damages and costs may be levied before the expiration of the time allowed for taking an appeal.

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

2. In addition to attempted personal service, the plaintiff may request, and thereupon the clerk of the court shall make an order directing that the officer, or other person empowered to

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 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 plaintiff
15 proceed to hear the case as if there had been personal service, and judgment shall be rendered
16 and proceedings had as in other cases, except that no money judgment shall be granted the
17 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 empowered
21 to execute the summons, makes return that the defendant is not found, or that the defendant has
22 absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request
23 the issuance of an alias summons and service of the same by posting and mailing in the time and
24 manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the
25 plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a
26 copy of the summons in the time and manner provided in subsection 2 of this section. Upon
27 proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons
28 and the complaint, the judge shall proceed to hear the case as if there had been personal service,
29 and judgment shall be rendered and proceedings had as in other cases, except that no money
30 judgment shall be granted the plaintiff where the defendant is in default and service is by the
31 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 [in the circuit court, as the case may be,] and [that] unless the judgment is set
37 aside within ten days, the judgment **for possession** will become final and the defendant will be
38 subject to eviction from the premises without further notice. **On the date judgment is rendered**
39 **if the defendant is in default, the clerk of the court shall mail to the defendant at the**
40 **defendant's last known address by ordinary mail a notice informing the defendant of the**
41 **foregoing.**

535.110. Applications for appeals shall be allowed and conducted in the manner
2 provided as in other civil cases; but no application for an appeal shall stay execution unless the
3 defendant [give] **gives** bond, with security sufficient to secure the payment of all damages, costs
4 and rent then due, and with condition to stay waste and to pay all subsequently accruing rent, if
5 any, into court within ten days [after it becomes due,] **after an entry of the judgment by the**
6 **trial court, all other provisions of law to the contrary notwithstanding,** pending
7 determination of the appeal. **Execution for the purpose of restoring possession shall be stayed**
8 **pending an appeal if the losing party posts a sufficient appeal bond.**

535.160. If the defendant, on the date any money judgment is given in any action
2 pursuant to this chapter, either tenders to the landlord, or brings into the court where the suit is
3 pending, all the rent then in arrears, and all the costs, further proceedings in the action shall cease
4 and be stayed. If on any date after the date of any original trial, **but before the judgment**
5 **becomes final,** the defendant shall satisfy such money judgment and pay all costs, any execution
6 for possession of the subject premises shall cease and be stayed; except that the landlord shall
7 not thereby be precluded from making application for appeal from such money judgment. If for
8 any reason no money judgment is entered against the defendant and judgment for the plaintiff
9 is limited only to possession of the subject premises, no stay of execution shall be had, except
10 as provided by the provisions of section 535.110 or the rules of civil procedure or by agreement
11 of the parties.

535.300. 1. A landlord may not demand or receive a security deposit in excess of two
2 months' rent.

3 2. Within thirty days after the date of termination of the tenancy, the landlord shall:

4 (1) Return the full amount of the security deposit; or

5 (2) Furnish to the tenant a written itemized list of the damages for which the security
6 deposit or any portion thereof is withheld, along with the balance of the security deposit. The
7 landlord shall have complied with this subsection by mailing such statement and any payment
8 to the last known address of the tenant.

9 3. The landlord may withhold from the security deposit only such amounts as are
10 reasonably necessary for the following reasons:

11 (1) To remedy a tenant's default in the payment of rent due to the landlord, pursuant to
12 the rental agreement;

13 (2) To restore the dwelling unit to its condition at the commencement of the tenancy,
14 ordinary wear and tear excepted; **provided, however, that this term does not preclude a**
15 **landlord and tenant from agreeing, in the rental agreement between them, upon amounts**
16 **or fees to be charged for specific services that may be required to return the premises to**

17 **its condition at the commencement of the tenancy including, but not limited to, cleaning**
18 **of the carpet, flooring, walls, or windows; or**

19 (3) To compensate the landlord for actual damages sustained as a result of the tenant's
20 failure to give adequate notice to terminate the tenancy pursuant to law or the rental agreement;
21 provided that the landlord makes reasonable efforts to mitigate damages.

22 4. The landlord shall give the tenant or his representative reasonable notice in writing
23 at his last known address or in person of the date and time when the landlord will inspect the
24 dwelling unit following the termination of the rental agreement to determine the amount of the
25 security deposit to be withheld, and the inspection shall be held at a reasonable time. The tenant
26 shall have the right to be present at the inspection of the dwelling unit at the time and date
27 scheduled by the landlord.

28 5. If the landlord wrongfully withholds all or any portion of the security deposit in
29 violation of this section, the tenant shall recover as damages not more than twice the amount
30 wrongfully withheld.

31 6. Nothing in this section shall be construed to limit the right of the landlord to recover
32 actual damages in excess of the security deposit, or to permit a tenant to apply or deduct any
33 portion of the security deposit at any time in lieu of payment of rent.

34 7. As used in this section, the term "security deposit" means any deposit of money or
35 property, however denominated, which is furnished by a tenant to a landlord to secure the
36 performance of any part of the rental agreement, including damages to the dwelling unit. This
37 term does not include any money or property denominated as a deposit for a pet on the premises.

2 [534.360. If it shall appear to the officer having charge of the execution
3 that the defendant therein is about to remove, conceal or dispose of his property,
4 so as to hinder or delay the levy, the rents and profits, damages and costs may be
levied before the expiration of the time allowed for taking an appeal.]

✓