SECOND REGULAR SESSION

HOUSE BILL NO. 1697

91ST GENERAL ASSEMBLY

AN ACT

To repeal section 535.040, RSMo, and to enact in lieu thereof one new section relating to rent and possession suits.

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

Section A. Section 535.040, RSMo, is repealed and one new section enacted in lieu
2 thereof, to be known as section 535.040, to read as follows:

535.040. Upon the return of the summons executed, the judge shall set the case **to be**
2 **heard by the court without a jury** on the first available court date 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.