

FIRST REGULAR SESSION

HOUSE BILL NO. 302

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

1141L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 535.030, RSMo, and to enact in lieu thereof one new section relating to the failure to vacate leased premises in a rent and possession case, with penalty provisions.

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

Section A. Section 535.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 535.030, to read as follows:

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 execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten days before the court date in such summons, and by also mailing a copy of the summons and complaint to the defendant at the defendant's last known address by ordinary mail at least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his or her usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the

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 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 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.

40 **5. If, after ten days from the date of the judgment the judgment is not set aside or**
41 **an application for a trial de novo has not been filed, the defendant shall willfully refuse to**
42 **vacate and surrender the possession of the premises to the plaintiff or the plaintiff's agent,**
43 **the defendant shall be guilty of a class B misdemeanor.**

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