

SECOND REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1410

97TH GENERAL ASSEMBLY

5326H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 512.180, 534.060, 534.350, 534.360, 534.380, 535.030, 535.110, 535.160, 535.170, 535.200, and 535.210, RSMo, and to enact in lieu thereof eleven new sections relating to landlord tenant actions.

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

Section A. Sections 512.180, 534.060, 534.350, 534.360, 534.380, 535.030, 535.110, 2 535.160, 535.170, 535.200, and 535.210, RSMo, are repealed and eleven new sections enacted 3 in lieu thereof, to be known as sections 512.180, 534.060, 534.350, 534.360, 534.380, 535.030, 4 535.110, 535.160, 535.170, 535.200, and 535.210, to read as follows:

512.180. 1. Any person aggrieved by a judgment in a civil case tried without a jury 2 before an associate circuit judge, other than an associate circuit judge sitting in the probate 3 division or who has been assigned to hear the case on the record under procedures applicable 4 before circuit judges, shall have the right of a trial de novo in all cases tried before municipal 5 court or under the provisions of [chapters] **chapter** 482[, 534, and 535].

6 2. In all other contested civil cases tried with or without a jury before an associate circuit 7 judge or on assignment under such procedures applicable before circuit judges or in any 8 misdemeanor case or county ordinance violation case a record shall be kept, and any person 9 aggrieved by a judgment rendered in any such case may have an appeal upon that record to the 10 appropriate appellate court. At the discretion of the judge, but in compliance with the rules of 11 the supreme court, the record may be a stenographic record or one made by the utilization of 12 electronic, magnetic, or mechanical sound or video recording devices.

534.060. Forcible entries and detainers, and unlawful detainers, may be heard and 2 determined by any associate circuit judge of the county in which they are committed. Neither

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.

3 the provisions of this section or any other section in this chapter shall preclude adoption of a
4 local circuit court rule providing for the centralized filing of such cases, nor the assignment of
5 such cases to particular associate circuit or circuit judges pursuant to local circuit court rule or
6 action by the presiding judge of the circuit. Such cases shall be heard and determined by
7 associate circuit judges unless a circuit judge is transferred or assigned to hear such case or cases
8 or unless the plaintiff pursuant to subsection 2 of section 478.250 has designated the case as one
9 to be heard under the practice and procedure applicable before circuit judges [and the case is
10 heard by a circuit judge. If the case is heard before an associate circuit judge who has not been
11 specially assigned to hear the case on the record] . **All cases under this chapter shall be heard
12 on the record. Unless the plaintiff under subsection 2 of section 478.250 has designated the
13 case as one to be heard under the practice and procedure applicable before circuit judges,**
14 to the extent practice and procedure are not provided in this chapter the practice and procedure
15 provided in chapter 517 shall apply. If the [case is heard initially before an associate circuit
16 judge who has been specially assigned to hear the case on a record or before a circuit judge, the
17 case shall be heard and determined under the same practice and procedure as would apply if the
18 case was being heard upon an application for trial de novo, and in such instances,
19 notwithstanding the specific references to chapter 517 in this chapter,] **plaintiff under
20 subsection 2 of section 478.250 has designated the case as one to be heard under the
21 practice and procedure applicable before circuit judges, the case shall be heard and
22 determined under the rules of practice and procedure provided in the Missouri Rules of Civil
23 Procedure [and the extant provisions of The Civil Code of Missouri shall apply] instead of those
24 contained in chapter 517, notwithstanding the specific references to chapter 517 in this
25 chapter.**

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

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

534.380. Applications for [trials de novo and] appeals shall be allowed and conducted
2 in the manner provided [in chapter 512] **by the Missouri Rules of Civil Procedure.**
3 Application for [a trial de novo or] appeal shall not stay execution for restitution of the premises
4 unless the defendant gives bond within the time for appeal. The bond shall be for the amount
5 of the judgment and with the condition to stay waste and to pay all subsequently accruing rent,

6 if any, into court within ten days after it becomes due, pending determination of the trial de novo
7 or appeal, subject to the judge's discretion. However, in any case in which the defendant receives
8 a reduction in rent due to a local, state or federal subsidy program, the amount of the bond shall
9 be reduced by the amount of said subsidy. Execution other than for restitution shall be stayed
10 if the defendant files a bond in the proper amount at such time as otherwise provided by law.

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

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

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 any trial de novo] the
5 defendant shall satisfy such money judgment and pay all costs, any execution for possession of
6 the subject premises shall cease and be stayed; except that the landlord shall not thereby be
7 precluded from making application for appeal from such money judgment. If for any reason no
8 money judgment is entered against the defendant and judgment for the plaintiff is limited only
9 to possession of the subject premises, no stay of execution shall be had, except as provided by
10 the provisions of section 535.110 or the rules of civil procedure or by agreement of the parties.

535.170. After the execution of any judgment for possession pursuant to this chapter,
2 the lessee and the lessee's assignees, and all other persons deriving title under the lease from such
3 lessee, shall be barred from reentry of such premises and from all relief, and except for error in
4 the record or proceedings, the landlord shall from that day hold the demised premises discharged
5 from the lease. Nothing in this section shall preclude an aggrieved party from perfecting an
6 appeal [or securing a trial de novo] as to any judgment rendered, and may as a result of such
7 appeal [or trial de novo] recover any damage incurred, including damages incurred from an
8 unlawful dispossession.

535.200. 1. In the twenty-second judicial circuit, upon adoption of an ordinance by the
2 city of St. Louis providing for expenditure of city funds for such purpose, a majority of the
3 circuit judges, en banc, may establish a landlord-tenant court, which shall be a division of the
4 circuit court, and may authorize the appointment of not more than two landlord-tenant court

5 commissioners. The landlord-tenant court commissioners shall be appointed by a
6 landlord-tenant court judicial commission consisting of the presiding judge of the circuit, who
7 shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge
8 elected by the associate circuit judges of the circuit, and two members appointed by the mayor
9 of the city of St. Louis, each of whom shall represent one of the two political parties casting the
10 highest number of votes at the next preceding gubernatorial election. The procedures and
11 operations of the landlord-tenant court judicial commission shall be established by circuit court
12 rule.

13 2. Landlord-tenant commissioners may be authorized to hear in the first instance disputes
14 involving landlords and their tenants. Landlord-tenant commissioners shall be authorized to
15 make findings of fact and conclusions of law, and to issue orders for the payment of money, for
16 the giving or taking of possession of residential property and any other equitable relief necessary
17 to resolve disputes governed by the laws in chapters 441, 524, 534, and this chapter.
18 Landlord-tenant commissioners may not, by ex parte means, hear cases and issue orders.

19 3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall
20 serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall
21 be residents of the city of St. Louis, and shall receive as annual compensation an amount equal
22 to one-third of the annual compensation of an associate circuit judge. Landlord-tenant
23 commissioners shall not accept or handle cases in their practice of law which are inconsistent
24 with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any
25 other court. Landlord-tenant commissioners shall not be considered state employees and shall
26 not be members of the state employees' or judicial retirement system or be eligible to receive any
27 other employment benefit accorded state employees or judges.

28 4. A majority of the judges of the circuit, en banc, shall establish operating procedures
29 for the landlord-tenant court. Proceedings in the landlord-tenant court shall be conducted as in
30 cases tried before an associate circuit judge. The hearing shall be before a landlord-tenant
31 commissioner without jury, and the commissioner shall assume an affirmative duty to determine
32 the merits of the evidence presented and the defenses of the defendant and may question parties
33 and witnesses. Clerks and computer personnel shall be assigned as needed for the efficient
34 operation of the court.

35 5. The parties to a cause of action before a commissioner of the landlord-tenant court are
36 entitled to file with the court a motion for a hearing in associate circuit court within ten days after
37 the mailing, or within ten days after service.

38 6. Operating procedures shall be provided for electronic recording of proceedings at city
39 expense. Any person aggrieved by a judgment in a case decided under this section shall have
40 a right to [a trial de novo in circuit court, or] an appeal to the appropriate appellate court, in the

41 same manner as would a person aggrieved by a decision of an associate circuit judge under
42 section 535.110. The procedures for perfecting the right of [a trial de novo or] an appeal shall
43 be the same as that provided pursuant to sections 512.180 to 512.320.

44 7. Any summons issued for the proceedings in the landlord-tenant court shall have a
45 return date of ten days. The sheriff must attempt to serve any summons within four days of the
46 date of issuance.

47 8. All costs to establish and operate a landlord-tenant court under this section shall be
48 borne by the city of St. Louis.

535.210. 1. In the sixteenth judicial circuit, upon adoption of an ordinance by Jackson
2 County providing for expenditure of county funds for such purpose, a majority of the circuit
3 court judges, en banc, may establish a landlord-tenant court, which shall be a division of the
4 circuit court, and may authorize the appointment of not more than two landlord-tenant court
5 commissioners. The landlord-tenant court commissioners shall be appointed by a
6 landlord-tenant court judicial commission consisting of the presiding judge of the circuit, who
7 shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge
8 elected by the associate circuit judges of the circuit, and two members appointed by the county
9 executive of Jackson County, each of whom shall represent one of the two political parties
10 casting the highest number of votes at the next preceding gubernatorial election. The procedures
11 and operations of the landlord-tenant court judicial commission shall be established by circuit
12 court rule.

13 2. Landlord-tenant commissioners may be authorized to hear in the first instance disputes
14 involving landlords and their tenants. Landlord-tenant commissioners shall be authorized to
15 make findings of fact and conclusions of law, and to issue orders for the payment of money, for
16 the giving or taking of possession of residential property and any other equitable relief necessary
17 to resolve disputes governed by the laws in chapters 441, 524, 534, and this chapter.
18 Landlord-tenant commissioners may not, by ex parte means, hear cases and issue orders.

19 3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall
20 serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall
21 be residents of Jackson County, and shall receive as annual compensation an amount equal to
22 one-third of the annual compensation of an associate circuit judge. Landlord-tenant
23 commissioners shall not accept or handle cases in their practice of law which are inconsistent
24 with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any
25 other court. Landlord-tenant commissioners shall not be considered state employees and shall
26 not be members of the state employees' or judicial retirement system or be eligible to receive any
27 other employment benefit accorded state employees or judges.

28 4. A majority of the judges of the circuit court, en banc, shall establish operating
29 procedures for the landlord-tenant court. Proceedings in the landlord-tenant court, shall be
30 conducted as in cases tried before an associate circuit judge. The hearing shall be before a
31 landlord-tenant commissioner without jury, and the commissioner shall assume an affirmative
32 duty to determine the merits of the evidence presented and the defenses of the defendant and may
33 question parties and witnesses. Clerks and computer personnel shall be assigned as needed for
34 the efficient operation of the court.

35 5. The parties to a cause of action before a commissioner of the landlord-tenant court are
36 entitled to file with the court a motion for a hearing in associate circuit court within ten days after
37 the mailing, or within ten days after service.

38 6. Operating procedures shall be provided for electronic recording of proceedings at
39 county expense. Any person aggrieved by a judgment in a case decided under this section shall
40 have a right to [a trial de novo in circuit court, or] an appeal to the appropriate appellate court,
41 in the same manner as would a person aggrieved by a decision of an associate circuit judge under
42 section 535.110. The procedures for perfecting the right of [a trial de novo or] **an** appeal shall
43 be the same as that provided pursuant to sections 512.180 to 512.320.

44 7. Any summons issued for the proceedings in the landlord-tenant court shall have a
45 return date of ten days from the date of service. [The sheriff] **Service** must [attempt to serve any
46 summons] **be attempted** within four days of the date of issuance.

47 8. All costs to establish and operate a landlord-tenant court under this section shall be
48 borne by Jackson County.

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