

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 581
99TH GENERAL ASSEMBLY

4585H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 512.180, 535.030, 535.110, 535.170, 535.200, 535.210, and 535.300, RSMo, and to enact in lieu thereof seven 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, 535.030, 535.110, 535.170, 535.200, 535.210, and
2 535.300, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as
3 sections 512.180, 535.030, 535.110, 535.170, 535.200, 535.210, and 535.300, 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 chapter 482 **or 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.

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.

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.

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. The defendant has ten days from the date of the judgment to file a motion to set aside
33 the judgment **or to file an application for a trial de novo** and unless the judgment is set aside
34 **or an application for a trial de novo is filed** within ten days , the judgment for possession will
35 become final and the defendant will be subject to eviction from the premises without further
36 notice. On the date judgment is rendered if the defendant is in default, the clerk of the court shall
37 mail to the defendant at the defendant's last known address by ordinary mail a notice informing
38 the defendant of the foregoing.

 535.110. Applications for **trials de novo and** appeals shall be allowed and conducted
2 in the manner provided [~~as in other civil cases~~] **in chapter 512**; but no application for **a trial de**

3 **nov** or an appeal shall stay execution unless the defendant give bond, with security sufficient
4 to secure the payment of all damages, costs and rent then due, into court within ten days after an
5 entry of the judgment by the trial court, all other provisions of law to the contrary
6 notwithstanding. Additional conditions of the appeal bond shall be to stay waste and to pay all
7 subsequently accruing rent, if any, into court within ten days after it becomes due, pending
8 determination of the **trial de novo** or appeal. Execution for the purposes of restoring possession
9 shall be stayed pending an appeal if the losing party posts a sufficient appeal bond.

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

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

3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall
19 serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall
20 be residents of the City of St. Louis, and shall receive as annual compensation an amount equal
21 to one-third of the annual compensation of an associate circuit judge. Landlord-tenant

22 commissioners shall not accept or handle cases in their practice of law which are inconsistent
23 with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any
24 other court. Landlord-tenant commissioners shall not be considered state employees and shall
25 not be members of the state employees' or judicial retirement system or be eligible to receive any
26 other employment benefit accorded state employees or judges.

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

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

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

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

46 8. All costs to establish and operate a landlord-tenant court under this section shall be
47 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 landlord-
6 tenant court judicial commission consisting of the presiding judge of the circuit, who shall be the
7 chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the
8 associate circuit judges of the circuit, and two members appointed by the county executive of
9 Jackson County, each of whom shall represent one of the two political parties casting the highest

10 number of votes at the next preceding gubernatorial election. The procedures and operations of
11 the landlord-tenant court judicial commission shall be established by circuit court rule.

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

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

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

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

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

43 7. Any summons issued for the proceedings in the landlord-tenant court shall have a
44 return date of ten days from the date of service. Service must be attempted within four days of
45 the date of issuance.

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

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

3 2. All security deposits shall be held by the landlord for the tenant, who is a party to the
4 rental agreement, in a bank, credit union, or depository institution which is insured by an agency
5 of the federal government. ~~[Security deposits shall not be commingled with other funds of the~~
6 ~~landlord. All security deposits shall be held in a trust established by the landlord and deposited~~
7 ~~in a bank, credit union, or depository institution account in the name of the trustee.]~~ Any interest
8 earned on a security deposit shall be the property of the landlord. ~~[A landlord licensed under and~~
9 ~~subject to the requirements of chapter 339, in lieu of complying with this subsection, shall~~
10 ~~maintain all tenant security deposits in a bank, credit union, financial or depository institution~~
11 ~~account, and shall not commingle such security deposits with other funds of the landlord except~~
12 ~~as provided in section 339.105.]~~ A housing authority created under section 99.040 or any other
13 government entity acting as a landlord shall not be subject to this subsection.

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

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

16 (2) Furnish to the tenant a written itemized list of the damages for which the security
17 deposit or any portion thereof is withheld, along with the balance of the security deposit.

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19 The landlord shall have complied with this subsection by mailing such statement and any
20 payment to the last known address of the tenant.

21 4. The landlord may withhold from the security deposit only such amounts as are
22 reasonably necessary for the following reasons:

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

25 (2) To restore the dwelling unit to its condition at the commencement of the tenancy,
26 ordinary wear and tear excepted; provided, however, that this subdivision does not preclude a
27 landlord and tenant from agreeing, in the rental agreement between them, upon amounts or fees
28 to be charged for cleaning of the carpet, and such amounts actually expended for carpet cleaning
29 can be withheld from the security deposit, so long as the rental agreement also includes a
30 provision notifying the tenant that he or she may be liable for actual costs for carpet cleaning that
31 exceed ordinary wear and tear, which may also be withheld from the security deposit. Within
32 thirty days of the end of the tenancy, the landlord shall provide the tenant a receipt for the actual
33 carpet cleaning costs; or

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

37 5. The landlord shall give the tenant or his representative reasonable notice in writing
38 at his last known address or in person of the date and time when the landlord will inspect the
39 dwelling unit following the termination of the rental agreement to determine the amount of the
40 security deposit to be withheld, and the inspection shall be held at a reasonable time. The tenant
41 shall have the right to be present at the inspection of the dwelling unit at the time and date
42 scheduled by the landlord.

43 6. If the landlord wrongfully withholds all or any portion of the security deposit in
44 violation of this section, the tenant shall recover as damages twice the amount wrongfully
45 withheld.

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

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

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