



THE MISSOURI BAR

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DATE: February 26, 2009
TO: Representative Maria Chappelle-Nadal
FROM: The Missouri Bar
RE: House Bill 294

Recently, The Missouri Bar Executive Committee met to review legislation. The Executive Committee consists of the officers of the bar and three additional members annually elected by the Board of Governors. The members of this year's committee are Thomas M. Burke, President; H.A. "Skip" Walther, President-Elect; John S. Johnston, Vice-President; Charlie J. Harris, Jr., Immediate Past-President; Carol Chazen Friedman; Patrick B. Starke; and Deanna K. Scott. The committee has authority to act on behalf of the Board of Governors during the legislative session. In reviewing legislation, the Executive Committee considers comments received from various Missouri Bar legislative review subcommittees. All positions taken by the Executive Committee are communicated to the full Board as soon as possible after they are taken.

House Bill 294 would require associate circuit courts to adopt a local court rule providing for the centralized filing of rent and possession cases, requiring the court to hear such cases within 30 days after filing and shifting the burden of proof of payment of rent to a tenant.

The Executive Committee found this legislation to be within the legislative scope of The Missouri Bar. The committee opposed the mandate that associate circuit courts adopt a local rule providing for centralized filing of rent and possession cases and requiring that such cases be heard within 30 days after the date of filing.

The following comments outline concerns about these provisions:

"The legislature probably cannot require a court to adopt a local court rule...Thirty days may not be appropriate. The bill fails to acknowledge there may be defenses other than payment of rent." *(name undisclosed)*

"The requirement of centralized filing is vague, and it seems that any current process by which courts file such actions would meet the terms of the bill. Additionally, the provision requiring the tenant to prove payment of rent before the hearing held within 30 days of filing does not contemplate the effect of lack of service within that time period. In the interest of justice and due process, the tenant should be given a reasonable time after service to answer, defend, and offer proof of payment." *Jeremiah Kidwell*