

HOUSE BILL NO. 5566

November 30, 2021, Introduced by Reps. Outman, Coleman, Sneller, Garza, Hertel, LaGrand and Cambensy and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 5741 and 5750 (MCL 600.5741 and 600.5750).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5741. **(1)** If the jury or the judge **in summary proceedings**
2 finds that the plaintiff is entitled to possession of **all or part**
3 **of** the premises, ~~or any part thereof,~~ judgment may be entered in
4 accordance with the finding and may be enforced by a writ of
5 restitution as provided in ~~this chapter.~~ **section 5744.** If ~~it is~~

1 ~~found that~~ the plaintiff is **found to be** entitled to possession of
 2 the premises ~~, in consequence of the~~ **because of** nonpayment of any
 3 money due under a tenancy ~~, or the nonpayment of moneys required to~~
 4 ~~be paid under an~~ executory contract for purchase of the premises,
 5 the jury or judge making the finding shall determine the amount due
 6 ~~or in arrears~~ at the time of trial. ~~which~~ **The amount shall due must**
 7 be stated in the judgment for possession. In determining the amount
 8 due under a tenancy, the jury or judge shall ~~deduct~~ **do both of the**
 9 **following:**

10 **(a) Deduct** any portion of the rent ~~which~~ **that** the jury or
 11 judge finds to be excused by the plaintiff's breach of the lease or
 12 ~~by his breach~~ of 1 or more statutory covenants imposed by section
 13 39 of ~~chapter 66 of the Revised Statutes of 1846, as added, being~~
 14 ~~section 554.139 of the Compiled Laws of 1948.~~ **1846 RS 66, MCL**
 15 **554.139.**

16 **(b) If the lease expressly provides for a fee for late payment**
 17 **of rent, add a fee as specified in the lease. However, the amount**
 18 **added may not exceed a monthly fee of the greater of \$50.00 or 10%**
 19 **of the rental amount, unless the lessor demonstrates that a higher**
 20 **late fee specified in the lease is reasonable.**

21 **(2) The statement of the amount due** in the judgment for
 22 possession ~~shall be~~ **is** only for the purpose of prescribing the
 23 amount ~~which,~~ **that,** together with taxed costs, ~~shall~~ **must** be paid
 24 to preclude issuance of the writ of restitution **under section 5744.**
 25 The judgment may include an award of costs, **which is** enforceable in
 26 the same manner as other civil judgments for money in the same
 27 court.

28 Sec. 5750. **(1) The remedy provided by summary proceedings is**
 29 **in addition to, and not exclusive of, other remedies. ~~, either~~**

1 ~~legal, equitable or statutory.~~ A judgment for possession under this
2 chapter does not merge or bar any other claim for relief, except
3 ~~that a~~ **as follows:**

4 (a) A judgment for possession after forfeiture of an executory
5 contract for the purchase of premises ~~shall merge and bar~~ **merges**
6 **and bars** any claim for money payments due or in arrears under the
7 contract at the time of trial. ~~and that a~~

8 (b) A judgment for possession after forfeiture of ~~such an~~
9 executory contract ~~which~~ **described in subdivision (a) that** results
10 in the issuance of a writ of restitution ~~shall also bar~~ **also bars**
11 any claim for money payments ~~which~~ **that** would have become due under
12 the contract ~~subsequent to the time of~~ **after** issuance of the writ.

13 (2) The plaintiff obtaining a judgment for possession of any
14 premises under this chapter ~~is entitled to~~ **may bring** a civil action
15 against the defendant for damages from the time of forcible entry
16 or detainer, ~~or trespass, or of the~~ notice of forfeiture, notice to
17 quit, or demand for possession. ~~, as the case may be.~~ **If the lease**
18 **expressly provides for a fee for late payment of rent, the damages**
19 **may include a fee as specified in the lease. However, the amount**
20 **included may not exceed a monthly fee of the greater of \$50.00 or**
21 **10% of the rental amount, unless the lessor demonstrates that a**
22 **higher late fee specified in the lease is reasonable.**

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.