

HOUSE BILL NO. 5238

October 25, 2023, Introduced by Reps. Wilson, Rheingans, Dievendorf, Hood, Morgan and Tsernoglou and referred to the Committee on Economic Development and Small Business.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8371 (MCL 600.8371), as amended by 2005 PA 151, and by adding section 5755.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5755. (1) The court may order that the records of a
2 summary proceeding for termination of a tenancy of residential
3 property under this chapter or chapter 57a be expunged if 1 or more
4 of the following apply:

5 (a) The court determines that the plaintiff's action is

1 sufficiently without a basis in fact or law, which may include a
2 lack of jurisdiction.

3 (b) All of the following apply:

4 (i) Judgment for possession was entered in the summary
5 proceedings.

6 (ii) The judgment was entered 3 years or more before the motion
7 to expunge the records.

8 (iii) The court determines that expunging the records is clearly
9 in the interests of justice, and that those interests are not
10 outweighed by the public's interest in knowing about the records,
11 after having considered the following factors:

12 (A) Circumstances beyond the control of the tenant that led to
13 the eviction.

14 (B) Other extenuating circumstances under which the order of
15 eviction was granted.

16 (c) The summary proceedings were brought under section
17 5714(1) (a) or (c) and a judgment of possession was not entered.

18 (d) The judgment was a judgment by stipulation of the parties
19 and the moving party has complied with the terms of the stipulated
20 agreement.

21 (e) The judgment was a judgment or judgment of dismissal
22 entered in the moving party's favor.

23 (2) On the motion of a tenant, manufactured home park
24 resident, or landlord, or on the court's own motion, a court may
25 order that the records of summary proceedings under this chapter or
26 chapter 57a be expunged if 1 or more of the following apply:

27 (a) The premises was sold under the foreclosure of a mortgage
28 or land contract, the tenancy was terminated because the defendant
29 continued in possession of the premises after the time limited by

1 law for redemption of the premises, and either of the following
2 applies:

3 (i) The defendant vacated the premises before the summary
4 proceedings were filed.

5 (ii) The defendant did not receive a written demand for
6 possession 90 days or more before the summary proceedings were
7 filed.

8 (b) The summary proceedings were filed during the state of
9 emergency declared under Executive Order No. 2020-4 or any
10 extension of that order, including an order issued under section
11 2253 of the public health code, 1978 PA 368, MCL 333.2253.

12 (3) If under subsection (1) or subsection (2) the court
13 determines the record should be expunged, the court shall enter an
14 appropriate order setting aside the judgment and expunging the
15 official records of the action pertaining to the moving party. On
16 entry of the order, the judgment is deemed not to have been
17 entered, and the moving party may answer accordingly any questions
18 relating to its occurrence.

19 (4) As used in this section, "official records" means all
20 records relating to the summary proceedings that are maintained by
21 the court, including, but not limited to, the complaint, any other
22 pleadings, a proof of service, findings of the court, and all other
23 papers, records, documents, and evidence, including exhibits and
24 transcripts of testimony.

25 Sec. 8371. (1) In the district court, the fees prescribed in
26 this section ~~shall~~**must** be paid to the clerk of the court.

27 (2) Before a civil action is commenced in the district court,
28 the party commencing the action shall pay to the clerk ~~the sum of~~
29 \$150.00 if the amount in controversy exceeds \$10,000.00. For each

1 fee collected under this subsection, the clerk shall transmit
2 \$31.00 to the treasurer of the district funding unit in which the
3 action was commenced, and shall transmit the balance to the state
4 treasurer for deposit in the civil filing fee fund created by
5 section 171.

6 (3) Before a civil action is commenced in the district court,
7 the party commencing the action shall pay to the clerk ~~the sum of~~
8 \$65.00 if the amount in controversy exceeds \$1,750.00 but does not
9 exceed \$10,000.00. For each fee collected under this subsection,
10 the clerk shall transmit \$23.00 to the treasurer of the district
11 funding unit in which the action was commenced, of which not less
12 than \$5.00 ~~shall~~**must** be used by the district funding unit to fund
13 a drug treatment court if one is planned, established, or operated
14 in that judicial district. If the entire amount attributable to the
15 \$5.00 portion is not needed for the operation of a drug treatment
16 court, the balance that is not needed for that purpose ~~shall~~**must**
17 be used for the operation of the district court. If a drug
18 treatment court is not planned, established, or operated in that
19 judicial district, all \$23.00 ~~shall~~**must** be used for the operation
20 of the district court. The clerk of the district court shall
21 transmit the balance of the filing fee to the state treasurer for
22 deposit in the civil filing fee fund created by section 171.

23 (4) Before a civil action is commenced in the district court,
24 the party commencing the action shall pay to the clerk ~~the sum of~~
25 \$45.00 if the amount in controversy exceeds \$600.00 but does not
26 exceed \$1,750.00. For each fee collected under this subsection, the
27 clerk shall transmit \$17.00 to the treasurer of the district
28 funding unit in which the action was commenced, of which not less
29 than \$5.00 ~~shall~~**must** be used by the district funding unit to fund

1 a drug treatment court if one is planned, established, or operated
2 in that judicial district. If the entire amount attributable to the
3 \$5.00 portion is not needed for the operation of a drug treatment
4 court, the balance that is not needed for that purpose ~~shall~~**must**
5 be used for the operation of the district court. If a drug
6 treatment court is not planned, established, or operated in that
7 judicial district, all \$17.00 ~~shall~~**must** be used for the operation
8 of the district court. The clerk of the district court shall
9 transmit the balance of the filing fee to the state treasurer for
10 deposit in the civil filing fee fund created by section 171.

11 (5) Before a civil action is commenced in the district court,
12 the party commencing the action shall pay to the clerk ~~the sum of~~
13 \$25.00 if the amount in controversy does not exceed \$600.00. For
14 each fee collected under this subsection, the clerk shall transmit
15 \$11.00 to the treasurer of the district funding unit in which the
16 action was commenced, of which not less than \$5.00 ~~shall~~**must** be
17 used by the district funding unit to fund a drug treatment court if
18 one is planned, established, or operated in that judicial district.
19 If the entire amount attributable to the \$5.00 portion is not
20 needed for the operation of a drug treatment court, the balance
21 that is not needed for that purpose ~~shall~~**must** be used for the
22 operation of the district court. If a drug treatment court is not
23 planned, established, or operated in that judicial district, all
24 \$11.00 ~~shall~~**must** be used for the operation of the district court.
25 The clerk of the district court shall transmit the balance of the
26 filing fee to the state treasurer for deposit in the civil filing
27 fee fund created by section 171.

28 (6) The judge shall order payment of any statutory fees waived
29 or suspended if the person subject to the fee is receiving public

1 assistance or is determined by the court to be indigent.

2 (7) Neither this state nor a political subdivision of this
3 state ~~shall be~~ **is** required to pay a filing fee in a civil
4 infraction action.

5 (8) Except for civil actions filed for relief under chapter
6 43, 57, or 84, if a civil action is filed for relief other than
7 money damages, the filing fee ~~shall~~ **must** be equal to the filing fee
8 in actions for money damages in excess of \$1,750.00 but not in
9 excess of \$10,000.00 as provided in subsection (3) and ~~shall~~ **must**
10 be transmitted in the same manner as a fee under subsection (3) is
11 transmitted. If a claim for money damages is joined with a claim
12 for relief other than money damages, the plaintiff shall pay a
13 supplemental filing fee in the same amount as required under
14 subsections (2) to (5).

15 (9) If a trial by jury is demanded, the party making the
16 demand at the time shall pay ~~the sum of~~ \$50.00. Failure to pay the
17 fee at the time the demand is made constitutes a waiver of the
18 right to a jury trial. The ~~sum shall~~ **amount paid must** be taxed in
19 favor of the party paying the fee, ~~in case~~ **if** the party recovers a
20 judgment for costs. For each fee collected under this subsection,
21 the clerk shall transmit \$10.00 to the state treasurer for deposit
22 in the juror compensation reimbursement fund created in section
23 151d.

24 (10) A ~~sum~~ **fee** of \$20.00 ~~shall~~ **must** be assessed for all
25 motions filed in a civil action. A motion fee ~~shall~~ **must** not be
26 assessed in a civil infraction action **or for a motion under section**
27 **5755**. For each fee collected under this subsection, the clerk shall
28 transmit \$10.00 to the state treasurer for deposit in the state
29 court fund created in section 151a and **shall transmit** the balance

1 ~~shall be transmitted~~ to the treasurer of the district funding unit
2 for the district court in the district in which the action was
3 commenced.