

HOUSE BILL NO. 5634

April 09, 2024, Introduced by Rep. Borton 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 5714 (MCL 600.5714), as amended by 2014 PA 223, and by adding section 5712.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5712. (1) A real property owner or the property owner's
2 authorized agent may submit to the sheriff of the county in which
3 the real property is located a completed and verified complaint
4 requesting the immediate removal of an unlawful occupant of a
5 residential dwelling under circumstances set forth in the

1 complaint. The complaint shall be in substantially the following
2 form:

3 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
4 RESIDENTIAL REAL PROPERTY

5 This complaint pertains to real property located at
6 _____, Michigan. I declare under
7 the penalty of perjury that (initial each numbered statement):

8 1. ____ I am the owner of the real property or the authorized
9 agent of the owner of the described real property.

10 2. ____ I purchased the property on _____.

11 3. ____ The property is a residential dwelling.

12 4. ____ A person or persons have unlawfully entered and are
13 remaining or residing unlawfully on the property.

14 5. ____ The property was not open to members of the public at
15 the time the person or persons entered.

16 6. ____ I have directed the person or persons to leave the
17 property, but they have not done so.

18 7. ____ The person or persons are not current or former
19 tenants pursuant to a valid lease authorized by the property owner
20 or current tenants pursuant to a valid lease authorized by the
21 property owner's predecessor in interest, and any such lease that
22 may be produced by an occupant is fraudulent.

23 8. ____ The person or persons are not owners or a co-owners of
24 the property and are not listed on the title to the property unless
25 the person or persons have engaged in title fraud.

26 9. ____ The person or persons are not immediate family members
27 of the property owner.

28 10. ____ There is no litigation related to the property
29 pending between the property owner and the person or persons

1 occupying the property.

2 11. ____ I understand that a person or persons removed from
3 the property pursuant to this procedure may bring a cause of action
4 against me for any false statements made in this complaint, or for
5 wrongfully using this procedure, and that, as a result, I may be
6 held liable for actual damages, penalties, costs, and reasonable
7 attorney fees.

8 12. ____ I request the sheriff to immediately remove the
9 person or persons from the property.

10 13. ____ A copy of my valid government-issued identification
11 is attached, or I am an agent of the property owner, and documents
12 evidencing my authority to act on the property owner's behalf are
13 attached.

14 I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND EACH
15 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THIS COMPLAINT IS
16 BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
17 SECTION 423 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.423.

18

(Signature of Property Owner or Agent of Owner)

19
20 (3) Upon receipt of the complaint, the sheriff shall verify
21 that the person submitting the complaint is the record owner of the
22 real property or the authorized agent of the owner and appears
23 otherwise entitled to relief under this section. Upon so verifying,
24 the sheriff shall, without delay, serve a notice to immediately
25 vacate on all the unlawful occupants and shall put the owner in
26 possession of the real property. Service may be accomplished by
27 hand delivery of the notice to an occupant or by posting the notice
28 on the front door or entrance of the dwelling. The sheriff shall
29 also attempt to verify the identities of all persons occupying the

1 dwelling and note the identities on the return of service. If
2 appropriate, the sheriff may arrest any person found in the
3 dwelling for trespass, outstanding warrants, or any other legal
4 cause.

5 (4) The sheriff is entitled to the same fee for service of the
6 notice to immediately vacate as if the sheriff were serving an
7 order of eviction under section 2559 and each unlawful occupant of
8 the property were a defendant. After the sheriff serves the notice
9 to immediately vacate, the property owner or authorized agent may
10 request that the sheriff stand by to keep the peace while the
11 property owner or agent of the owner changes the locks and removes
12 the personal property of the unlawful occupants from the premises
13 to or near the property line. The person requesting the sheriff to
14 stand by and keep the peace is responsible for paying a reasonable
15 hourly rate set by the sheriff for so doing. The sheriff is not
16 liable to the unlawful occupant or any other party for loss,
17 destruction, or damage of property. The property owner or the
18 property owner's authorized agent is not liable to an unlawful
19 occupant or any other party for loss, destruction, or damage to the
20 personal property unless the removal was wrongful.

21 (5) A person may bring a civil cause of action for wrongful
22 removal under this section. A person harmed by a wrongful removal
23 under this section may be restored to possession of the real
24 property and may recover actual costs and damages incurred,
25 statutory damages equal to triple the fair market rent of the
26 dwelling, court costs, and reasonable attorney fees. The court
27 shall advance the cause on the calendar.

28 (6) This section does not limit the rights of a property owner
29 or limit the authority of a law enforcement officer to arrest an

1 **unlawful occupant for trespassing, vandalism, theft, or other**
2 **crimes.**

3 Sec. 5714. (1) A person entitled to possession of premises may
4 recover possession by summary proceedings in the following
5 circumstances:

6 (a) When a person holds over premises after failing or
7 refusing to pay rent due under the lease or agreement by which the
8 person holds the premises within 7 days from the service of a
9 written demand for possession for nonpayment of the rent due. For
10 the purpose of this subdivision, rent due does not include any
11 accelerated indebtedness because of a breach of the lease under
12 which the premises are held.

13 (b) When a person holds over premises for 24 hours following
14 service of a written demand for possession for termination of the
15 lease pursuant to a clause in the lease providing for termination
16 because a tenant, a member of the tenant's household, or other
17 person under the tenant's control has unlawfully manufactured,
18 delivered, possessed with intent to deliver, or possessed a
19 controlled substance on the leased premises. This subdivision
20 applies only if a formal police report has been filed alleging that
21 the person has unlawfully manufactured, delivered, possessed with
22 intent to deliver, or possessed a controlled substance on the
23 leased premises. For purposes of this subdivision, "controlled
24 substance" means a substance or a counterfeit substance classified
25 in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the
26 public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

27 (c) When a person holds over premises in 1 or more of the
28 following circumstances:

29 (i) After termination of the lease, pursuant to a power to

1 terminate provided in the lease or implied by law.

2 (ii) After the term for which the premises are demised to the
3 person or to the person under whom he or she holds.

4 (iii) After the termination of the person's estate by a notice
5 to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

6 (d) When the person in possession willfully or negligently
7 causes a serious and continuing health hazard to exist on the
8 premises, or causes extensive and continuing physical injury to the
9 premises, which was discovered or should reasonably have been
10 discovered by the party seeking possession not earlier than 90 days
11 before the institution of proceedings under this chapter and when
12 the person in possession neglects or refuses for 7 days after
13 service of a demand for possession of the premises to deliver up
14 possession of the premises or to substantially restore or repair
15 the premises.

16 (e) When a person holds over premises for 7 days following
17 service of a written notice to quit for termination of ~~the~~^a lease
18 after the tenant, a member of the tenant's household, or a person
19 under the tenant's control, on real property owned or operated by
20 the tenant's landlord, has caused or threatened physical injury to
21 an individual. This subdivision applies only if the police
22 department with jurisdiction has been notified that the person, on
23 real property owned or operated by the tenant's landlord, caused or
24 threatened physical injury to an individual. This subdivision does
25 not apply in either of the following cases:

26 (i) The individual who was physically injured or threatened is
27 the tenant or a member of the tenant's household.

28 (ii) Application would result in a violation of federal housing
29 regulations.

1 (f) When a person takes possession of premises by means of a
2 forcible entry, holds possession of premises by force after a
3 peaceable entry, or comes into possession of premises by trespass
4 without color of title or other possessory interest. This remedy is
5 in addition to the remedy of entry permitted under ~~section~~**sections**
6 5711(3) **and 5712.**

7 (g) When a person continues in possession of premises sold by
8 virtue of a mortgage or execution, after the time limited by law
9 for redemption of the premises.

10 (h) When a person continues in possession of premises sold and
11 conveyed by a personal representative under license from the
12 probate court or under authority in the will.

13 (2) A tenant or occupant of housing operated by a city,
14 village, township, or other unit of local government, as provided
15 in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered
16 to be holding over under subsection (1)(b) or (c) unless the
17 tenancy or agreement has been terminated for just cause, as
18 provided by lawful rules of the local housing commission or by law.

19 (3) A tenant of a mobile home park is not considered to be
20 holding over under subsection (1)(b) or (c) unless the tenancy or
21 lease agreement is terminated for just cause pursuant to chapter
22 57a.