

HOUSE BILL NO. 5754

May 30, 2024, Introduced by Reps. Tsernoglou, Wilson, Weiss, Price, O'Neal, Hope, Morgan and Brenda Carter 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 5744 (MCL 600.5744), as amended by 2019 PA 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5744. (1) Subject to the time restrictions of this
2 section, the court entering a judgment for possession in a summary
3 proceeding shall issue a writ commanding a court officer appointed
4 by or a bailiff of the issuing court, the sheriff or a deputy
5 sheriff of the county in which the issuing court is located, or an
6 officer of the law enforcement agency of the local unit of

1 government in which the issuing court is located to restore the
2 plaintiff to and put the plaintiff in full, peaceful possession of
3 the premises by removing all occupants and all personal property
4 from the premises and doing either of the following:

5 (a) Leaving the property in an area open to the public or in
6 the public right-of-way.

7 (b) Delivering the property to the sheriff as authorized by
8 the sheriff.

9 (2) Abandonment of the premises that is the subject of a writ
10 under subsection (1) and of any personal property on the premises
11 must be determined by the officer, bailiff, sheriff, or deputy
12 sheriff serving the writ.

13 (3) On conditions determined by the court, a writ of
14 restitution may be issued immediately after the entry of a judgment
15 for possession if any of the following is pleaded and proved, with
16 notice, to the satisfaction of the court:

17 (a) The premises are subject to inspection and certificate of
18 compliance under the housing law of Michigan, 1917 PA 167, MCL
19 125.401 to 125.543, and the certificate or temporary certificate
20 has not been issued and the premises have been ordered vacated.

21 (b) Forcible entry was made contrary to law.

22 (c) Entry was made peaceably but possession is unlawfully held
23 by force.

24 (d) The defendant came into possession by trespass without
25 color of title or other possessory interest.

26 (e) The tenant, willfully or negligently, is causing a serious
27 and continuing health hazard to exist on the premises or is causing
28 extensive and continuing injury to the premises and is neglecting
29 or refusing either to deliver up possession after demand or to

1 substantially restore or repair the premises.

2 (f) The action is an action to which section 5714(1) (b)
3 applies.

4 (4) If a judgment for possession is based on forfeiture of an
5 executory contract for the purchase of the premises, a writ of
6 restitution must not be issued until the expiration of 90 days
7 after the entry of judgment for possession if less than 50% of the
8 purchase price has been paid or until the expiration of 6 months
9 after the entry of judgment for possession if 50% or more of the
10 purchase price has been paid.

11 (5) If subsections (3) and (4) do not apply, a writ of
12 restitution must not be issued until the expiration of ~~10~~14 days
13 after the entry of the judgment for possession.

14 (6) If an appeal is taken or a motion for new trial is filed
15 before the expiration of the period during which a writ of
16 restitution must not be issued and if a bond to stay proceedings is
17 filed, the period during which the writ must not be issued is
18 tolled until the disposition of the appeal or motion for new trial
19 is final.

20 (7) If a judgment for possession is for nonpayment of money
21 due under a tenancy or for nonpayment of money required to be paid
22 under or any other material breach of an executory contract for
23 purchase of the premises, the writ of restitution must not be
24 issued if, within the time provided, the amount stated in the
25 judgment, with the taxed costs, is paid to the plaintiff and other
26 material breaches of the executory contract for purchase of the
27 premises are cured.

28 (8) Issuance of a writ of restitution following entry of a
29 judgment for possession because of the forfeiture of an executory

1 contract for the purchase of the premises forecloses any equitable
2 right of redemption that the purchaser has or could claim in the
3 premises.