

**SUBSTITUTE FOR
SENATE BILL NO. 3**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 5744 (MCL 600.5744), as amended by 2004 PA 105.

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 ~~any~~
6 ~~other an officer authorized to serve the process,~~ **of the law**
7 **enforcement agency of the local unit of government in which the**
8 **issuing court is located** to restore the plaintiff to ~~and~~ put the
9 plaintiff in ~~and~~ full, **peaceful** possession of the premises **by**



1 removing all occupants and all personal property from the premises
2 and doing either of the following:

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

5 (b) Delivering the property to the sheriff as authorized by
6 the sheriff.

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

11 (3) ~~(2)~~—On conditions determined by the court, a writ of
12 restitution may be issued immediately after the entry of a judgment
13 for possession ~~when~~ if any of the following is pleaded and proved,
14 with notice, to the satisfaction of the court:

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

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

20 (c) Entry was made peaceably but possession is unlawfully held
21 by force.

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

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

29 (f) The action is an action to which section 5714(1)(b)



1 applies.

2 **(4)** ~~(3) When~~ **If** a judgment for possession is based ~~upon the on~~
3 forfeiture of an executory contract for the purchase of the
4 premises, a writ of restitution ~~shall~~ **must** not be issued until the
5 expiration of 90 days after the entry of judgment for possession if
6 less than 50% of the purchase price has been paid or until the
7 expiration of 6 months after the entry of judgment for possession
8 if 50% or more of the purchase price has been paid.

9 **(5)** ~~(4) In all cases not controlled by subsection (2) or~~ **If**
10 **subsections (3) and (4) do not apply,** a writ of restitution ~~shall~~
11 **must** not be issued until the expiration of 10 days after the entry
12 of the judgment for possession.

13 **(6)** ~~(5)~~ If an appeal is taken or a motion for new trial is
14 filed before the expiration of the period during which a writ of
15 restitution ~~shall~~ **must** not be issued and if a bond to stay
16 proceedings is filed, the period during which the writ ~~shall~~ **must**
17 not be issued ~~shall be~~ **is** tolled until the disposition of the
18 appeal or motion for new trial is final.

19 **(7)** ~~(6) When~~ **If** a judgment for possession is for nonpayment of
20 money due under a tenancy or for nonpayment of money required to be
21 paid under or any other material breach of an executory contract
22 for purchase of the premises, the writ of restitution ~~shall~~ **must**
23 not ~~issue~~ **be issued** if, within the time provided, the amount stated
24 in the judgment, ~~together~~ with the taxed costs, is paid to the
25 plaintiff and other material breaches of the executory contract for
26 purchase of the premises are cured.

27 **(8)** ~~(7)~~ Issuance of a writ of restitution following entry of a
28 judgment for possession because of the forfeiture of an executory
29 contract for the purchase of the premises forecloses any equitable



1 right of redemption that the purchaser has or could claim in the
2 premises.

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

