



# HOUSE BILL No. 5710

September 13, 1994, Introduced by Rep Griffin and referred to the Committee on Judiciary

A bill to amend section 5744 of Act No 236 of the Public Acts of 1961, entitled as amended

'Revised judicature act of 1961,'

being section 600 5744 of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 5744 of Act No 236 of the Public Acts  
2 of 1961, as amended, being section 600 5744 of the Michigan  
3 Compiled Laws, is amended to read as follows

4 Sec 5744 (1) Subject to the time restrictions of this  
5 section, the court entering a judgment for possession shall issue  
6 a writ commanding the sheriff, or any other officer authorized to  
7 serve the process, to ~~cause~~ RESTORE the plaintiff to ~~be~~  
8 ~~restored and put in~~ full possession of the premises THE WRIT  
9 SHALL PROVIDE THAT THE DEFENDANT SHALL REMOVE FROM PUBLIC  
10 PROPERTY ALL ITEMS OF PERSONAL PROPERTY THAT ARE REMOVED FROM THE

1 PREMISES AND PLACED ON PUBLIC PROPERTY DURING EXECUTION OF THE  
2 WRIT

3 (2) ~~On conditions determined by the~~ THE court ~~,~~ MAY  
4 ISSUE the writ of restitution ~~may be issued forthwith upon the~~  
5 ~~entry of~~ WHEN THE judgment for possession ~~when~~ IS ENTERED IF  
6 any of the following ~~is~~ ARE pleaded and proved, with notice, to  
7 the satisfaction of the court

8 (a) The premises are subject to inspection and certificate  
9 of compliance under THE HOUSING LAW OF MICHIGAN, Act No 167 of  
10 the Public Acts of 1917, as amended, being sections 125 401 to  
11 125 543 of the MICHIGAN Compiled Laws, ~~of 1948~~ and the certifi-  
12 cate or temporary certificate has not been issued and the  
13 premises have been ordered vacated

14 (b) Forcible entry was made contrary to law

15 (c) Entry was made peaceably but possession is unlawfully  
16 held by force

17 (d) The defendant came into possession by trespass without  
18 color of title or other possessory interest

19 (e) The ~~tenant, wilfully or negligently,~~ DEFENDANT IS  
20 causing a serious and continuing health hazard to exist on the  
21 premises or is causing extensive and continuing injury to the  
22 premises and is ~~neglecting or refusing either to deliver up~~ NOT  
23 SURRENDERING possession OF THE PREMISES after demand or ~~to~~ IS  
24 NOT substantially ~~restore~~ RESTORING or ~~repair~~ REPAIRING the  
25 premises

26 (3) When the judgment for possession is based ~~upon~~ ON the  
27 forfeiture of an executory contract for the purchase of the

1 premises the writ of restitution shall not be issued until the  
 2 expiration of 90 days after the entry of judgment for possession  
 3 if less than 50% of the purchase price has been paid or until the  
 4 expiration of 6 months after the entry of judgment for possession  
 5 if 50% or more of the purchase price has been paid

6 (4) In all other cases, the writ of restitution shall not be  
 7 issued until the expiration of 10 days after the entry of the  
 8 judgment for possession

9 (5) If an appeal is taken or a motion for new trial is filed  
 10 before the expiration of the period during which the writ of res-  
 11 titution shall not be issued and if a bond to stay proceedings is  
 12 filed, the period during which the writ shall not be issued  
 13 ~~shall be~~ IS tolled until the disposition of the appeal or  
 14 motion for new trial is final

15 (6) When the judgment for possession is for nonpayment of  
 16 money due under a tenancy, ~~or~~ for nonpayment of ~~moneys~~ MONEY  
 17 required to be paid under AN EXECUTORY CONTRACT FOR THE PURCHASE  
 18 OF THE PREMISES or any other material breach of an executory  
 19 contract for THE purchase of the premises the writ of restitu-  
 20 tion shall not issue if within the ~~time provided~~ PERIOD DURING  
 21 WHICH THE WRIT SHALL NOT BE ISSUED, the amount as stated in the  
 22 judgment, together with the taxed costs is paid to the plaintiff  
 23 and ALL other material breaches of an executory contract for pur-  
 24 chase of the premises are cured

25 (7) ~~Issuance of the~~ IF A writ of restitution ~~, based on~~  
 26 IS ISSUED AFTER ENTRY OF a judgment for possession ~~in~~  
 27 ~~consequence of~~ BASED ON the forfeiture of an executory contract

1 for the purchase of the premises ~~shall foreclose~~ any equitable  
2 right of redemption ~~which~~ THAT the purchaser might have or  
3 claim in the premises IS FORECLOSED