

HOUSE BILL No. 6099

August 4, 2004, Introduced by Rep. Accavitti and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 5701 and 5735 (MCL 600.5701 and 600.5735),
section 5735 as amended by 2004 PA 105, and by adding section
5733.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5701. As used in this chapter:

2 (a) "District" means a judicial district established in
3 chapter 81.

4 (b) "Lease" includes a written or verbal lease or license
5 agreement for use or possession of premises.

6 (c) "Premises" includes lands, tenements, condominium
7 property, cooperative apartments, air rights, and all manner of
8 real property. Premises includes fixed, mobile, temporary, or
9 permanent structures, vessels, mobile trailer homes, and vehicles

1 that are used or intended for use primarily as a dwelling or as a
2 place for commercial or industrial operations or storage.

3 (d) "Senior citizen" means an individual who is 62 years of
4 age or older or who resides with his or her spouse who is 62
5 years of age or older.

6 (e) ~~-(a)-~~ "Summary proceedings" means a civil action to
7 recover possession of premises and to obtain ~~certain~~ ancillary
8 relief ~~as provided by~~ **under** this chapter and ~~by~~ court rules
9 adopted in connection ~~therewith~~ **with this chapter**.

10 ~~(b) "Premises" includes lands, tenements, condominium~~
11 ~~property, cooperative apartments, air rights and all manner of~~
12 ~~real property. It includes structures fixed or mobile, temporary~~
13 ~~or permanent, vessels, mobile trailer homes and vehicles which~~
14 ~~are used or intended for use primarily as a dwelling or as a~~
15 ~~place for commercial or industrial operations or storage.~~

16 ~~----- (c) "Lease" includes a written or verbal lease or license~~
17 ~~agreement for use or possession of premises.~~

18 ~~----- (d) "District" means the judicial districts provided for in~~
19 ~~chapter 81.~~

20 Sec. 5733. (1) At the time of commencing an action to
21 recover possession of premises held under a lease, the plaintiff
22 shall file with the court an affidavit or verified complaint
23 stating whether a defendant is a senior citizen. A default shall
24 not be entered against a defendant in an action to recover
25 possession of premises held under a lease unless the affidavit
26 required by this section has been filed with the court.

27 (2) A person who knowingly files a false affidavit under this

1 section is guilty of a misdemeanor punishable by imprisonment of
2 not more than 1 year or a fine of not more than \$10,000.00, or
3 both.

4 Sec. 5735. (1) The court in which a summary proceeding is
5 commenced shall issue a summons, which may be served on the
6 defendant by any officer or person authorized to serve process of
7 the court. The summons shall command the defendant to appear for
8 trial in accordance with the provisions of subsection (2) unless
9 by local court rule the provisions of subsection (4) have been
10 made applicable.

11 (2) A summons issued under this section shall command the
12 defendant to appear for trial as follows:

13 (a) Within 30 days of the issuance date of the summons in
14 proceedings under section 5726, in which event the summons shall
15 be served not less than 10 days before the date set for trial.

16 (b) Within 10 days of the issuance date of the summons in all
17 other proceedings, in which event the summons shall be served not
18 less than 3 days before the date set for trial.

19 (3) If a summons issued under this section is not served
20 within the time provided by subsection (2), additional summons
21 shall be issued at the plaintiff's request in the same manner and
22 with the same effect as the original summons.

23 (4) Instead of the provisions of subsection (2), a court by
24 local rule may provide for the application of this subsection to
25 summary proceedings commenced in the court, in which event the
26 summons shall command the defendant to appear as follows:

27 (a) Within 10 days after service of the summons upon the

1 defendant in proceedings under section 5726.

2 (b) Within 5 days after service of the summons upon the
3 defendant in all other proceedings.

4 (5) A summons issued under subsection (4) remains in effect
5 until served or quashed or until the action is dismissed, but
6 additional summons as needed for service may be issued at any
7 time at the plaintiff's request.

8 (6) Except as otherwise provided by court rule **and subject to**
9 **subsections (7) and (8)**, a summary proceeding shall be heard
10 within 7 days after the defendant's appearance or trial date and
11 shall not be adjourned beyond that time other than by stipulation
12 of the parties either in writing or on the record.

13 (7) An action to which section 5714(1)(b) applies shall be
14 heard at the time of the defendant's appearance or trial date and
15 shall not be adjourned beyond that time except for extraordinary
16 reasons.

17 (8) **Subject to subsection (7), if the affidavit filed under**
18 **section 5733 states or if the court otherwise determines that a**
19 **defendant in summary proceedings is a senior citizen, the court**
20 **may do 1 or both of the following:**

21 (a) Adjourn the hearing of the action for not more than 91
22 days after the defendant's appearance or trial date.

23 (b) If the defendant is not represented by an attorney,
24 appoint an attorney to represent the defendant.