

# HOUSE BILL No. 5221

November 7, 2017, Introduced by Rep. Graves and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 5741 and 5750 (MCL 600.5741 and 600.5750).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5741. **(1)** If the jury or the judge finds that the  
2 plaintiff is entitled to possession of **ALL OR PART OF** the premises,  
3 ~~or any part thereof,~~ judgment may be entered in accordance with the  
4 finding and may be enforced by a writ of restitution as provided in  
5 ~~this chapter.~~ **SECTION 5744.** If it is found that the plaintiff is  
6 **FOUND TO BE** entitled to possession of the premises ~~, in consequence~~  
7 ~~of the~~ **BECAUSE OF** nonpayment of any money due under a tenancy ~~, or~~  
8 ~~the nonpayment of moneys required to be paid under an executory~~  
9 contract for purchase of the premises, the jury or judge making the  
10 finding shall determine the amount due ~~or in arrears~~ at the time of  
11 trial. ~~which~~ **THE** amount **DUE** shall be stated in the judgment for

possession. In determining the amount due under a tenancy, the jury or judge shall ~~deduct~~ **DO BOTH OF THE FOLLOWING:**

**(A) DEDUCT** any portion of the rent ~~which~~ **THAT** the jury or judge finds to be excused by the plaintiff's breach of the lease or ~~by his breach~~ of 1 or more statutory covenants imposed by section 39 of chapter 66 of the Revised Statutes of 1846, as added, being ~~section 554.139 of the Compiled Laws of 1948.~~ **1846 RS 66, MCL 554.139.**

**(B) ADD ANY FEE FOR LATE PAYMENT OF RENT SPECIFIED IN THE LEASE, BUT NOT MORE THAN A MONTHLY FEE OF THE GREATER OF \$50.00 OR 10% OF THE RENTAL AMOUNT, UNLESS THE LESSOR DEMONSTRATES THAT A HIGHER LATE FEE SPECIFIED IN THE LEASE IS REASONABLE.**

**(2)** The statement **OF THE AMOUNT DUE** in the judgment for possession ~~shall be~~ **IS** only for the purpose of prescribing the amount ~~which,~~ **THAT**, together with taxed costs, shall be paid to preclude issuance of the writ of restitution **UNDER SECTION 5744.** The judgment may include an award of costs, **WHICH IS** enforceable in the same manner as other civil judgments for money in the same court.

Sec. 5750. **(1)** The remedy provided by summary proceedings is in addition to, and not exclusive of, other remedies. ~~either legal, equitable or statutory.~~ A judgment for possession under this chapter does not merge or bar any other claim for relief, except ~~that a~~ **AS FOLLOWS:**

**(A) A** judgment for possession after forfeiture of an executory contract for the purchase of premises ~~shall merge and bar~~ **MERGES AND BARS** any claim for money payments due or in arrears under the

1 contract at the time of trial. ~~and that a~~

2 (B) A judgment for possession after forfeiture of such an  
3 executory contract ~~which~~ **THAT** results in the issuance of a writ of  
4 restitution ~~shall also bar~~ **ALSO BARS** any claim for money payments  
5 ~~which~~ **THAT** would have become due under the contract ~~subsequent to~~  
6 ~~the time of~~ **AFTER** issuance of the writ.

7 (2) The plaintiff obtaining a judgment for possession of any  
8 premises under this chapter ~~is entitled to~~ **MAY BRING** a civil action  
9 against the defendant for damages from the time of forcible entry  
10 or detainer, ~~or trespass, or of the notice of forfeiture, notice to~~  
11 ~~quit, or demand for possession. , as the case may be.~~ **THE DAMAGES**  
12 **MAY INCLUDE ANY FEES FOR LATE PAYMENT OF RENT SPECIFIED IN THE**  
13 **LEASE, BUT NOT MORE THAN A MONTHLY FEE OF THE GREATER OF \$50.00 OR**  
14 **10% OF THE RENTAL AMOUNT, UNLESS THE LESSOR DEMONSTRATES THAT A**  
15 **HIGHER LATE FEE SPECIFIED IN THE LEASE IS REASONABLE.**

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