

HOUSE BILL No. 5767

July 13, 2016, Introduced by Rep. Forlini 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~~ **OR** 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.