

HOUSE BILL NO. 5566

November 30, 2021, Introduced by Reps. Outman, Coleman, Sneller, Garza, Hertel, LaGrand and Cambensy 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 **in summary proceedings**
2 finds that the plaintiff is entitled to possession of **all or part**
3 **of** the premises, ~~or any part thereof,~~ judgment may be entered in
4 accordance with the finding and may be enforced by a writ of
5 restitution as provided in ~~this chapter.~~ **section 5744.** If ~~it is~~

~~found that the plaintiff is~~ **found to be** entitled to possession of the premises ~~, in consequence of the~~ **because of** nonpayment of any money due under a tenancy ~~, or the nonpayment of moneys required to be paid under an executory contract for purchase of the premises,~~ the jury or judge making the finding shall determine the amount due ~~or in arrears at the time of trial. which~~ **The amount shall due must** 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) If the lease expressly provides for a fee for late payment of rent, add a fee as specified in the lease. However, the amount added may not exceed 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 must~~ 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 contract at the time of trial. ~~and that a~~

(b) A judgment for possession after forfeiture of ~~such an~~ executory contract ~~which~~ **described in subdivision (a) that** results in the issuance of a writ of restitution ~~shall also bar~~ **also bars** any claim for money payments ~~which that~~ would have become due under the contract ~~subsequent to the time of~~ **after** issuance of the writ.

(2) The plaintiff obtaining a judgment for possession of any premises under this chapter ~~is entitled to~~ **may bring** a civil action against the defendant for damages from the time of forcible entry or detainer, ~~or trespass, or of the notice of forfeiture, notice to quit, or demand for possession. , as the case may be.~~ **If the lease expressly provides for a fee for late payment of rent, the damages may include a fee as specified in the lease. However, the amount included may not exceed 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.**

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