

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

CHAPTER 57

SUMMARY PROCEEDINGS TO RECOVER POSSESSION OF PREMISES

**600.5701 Definitions.**

Sec. 5701. As used in this chapter:

(a) "Summary proceedings" means a civil action to recover possession of premises and to obtain certain ancillary relief as provided by this chapter and by court rules adopted in connection therewith.

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

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

(d) "District" means the judicial districts provided for in chapter 81.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**600.5704 Jurisdiction.**

Sec. 5704. The district court, municipal courts and the common pleas court of Detroit have jurisdiction over summary proceedings to recover possession of premises under this chapter.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**600.5706 Venue.**

Sec. 5706. (1) This section governs venue in all courts having jurisdiction over summary proceedings and is not jurisdictional.

(2) In districts where the district court is operative, the following are the proper places in which to commence and try summary proceedings:

(a) The county in which the premises or any part of the premises are situated, in districts of the first class.

(b) The district in which the premises or any part of the premises are situated, in districts of the second or third class.

(3) In districts where the district court is not operative, the municipal court of the city in which the premises or any part of the premises are situated is a proper court in which to commence and try summary proceedings. A municipal court having jurisdiction pursuant to section 9928 over a township in which the premises or any part of the premises are situated is a proper court in which to commence and try summary proceedings.

(4) Summary proceedings brought in a county, district, or court not designated as a proper county, district, or court may be tried in that county, district, or court, unless a defendant moves for a change of venue or the court upon its own motion orders a change of venue. The defendant's motion or the court's order shall be made within the time and in the manner provided by court rule and the court shall transfer such a proceeding to a proper county, district, or court on the condition that the plaintiff pay to the court to which the action is transferred an additional filing fee and on such other conditions relative to expense and costs as may be provided by court rule.

(5) On such grounds and conditions as may be provided by court rule, the venue of summary proceedings commenced in a proper county, district, or court may be changed to any other county, district, or court and the proceeding tried in that county, district, or court. The court to which any transfer is made pursuant to this subsection or subsection (4) has full jurisdiction of the proceeding as though the proceeding were originally commenced in that court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1980, Act 438, Eff. Sept. 1, 1981.

**Compiler's note:** Sections 2 and 4 of Act 438 of 1980 provide:

**“Conditional effective date; action constituting exercise of option; effect of exercising option.**

“Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect.

“(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne beyond that required by existing law, as the elements of that option are defined by Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, and a

voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978."

The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981.

**"Effective date of certain sections.**

"Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."

**600.5708 Rules.**

Sec. 5708. Except as otherwise provided in this chapter, the procedure in summary proceedings shall be regulated by rules adopted by the supreme court and by local court rules not inconsistent therewith.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**600.5711 Entry.**

Sec. 5711. (1) A person shall not make any entry into or upon premises unless the entry is permitted by law.

(2) Subject to subsection (3), if entry is permitted by law, the person shall not enter with force but only in a peaceable manner.

(3) If the occupant took possession of the premises by means of a forcible entry, holds possession of the premises by force, or came into possession of the premises by trespass without color of title or other possessory interest, the owner, lessor, or licensor or an agent thereof may enter the premises and subsection (2) does not apply to the entry. However, any forcible entry shall not include conduct proscribed by chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90h.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2014, Act 223, Eff. Sept. 24, 2014.

**600.5714 Summary proceedings to recover possession of premises; holding over by tenant or occupant of public housing or by tenant of mobile home park.**

Sec. 5714. (1) A person entitled to possession of premises may recover possession by summary proceedings in the following circumstances:

(a) When a person holds over premises after failing or refusing to pay rent due under the lease or agreement by which the person holds the premises within 7 days from the service of a written demand for possession for nonpayment of the rent due. For the purpose of this subdivision, rent due does not include any accelerated indebtedness because of a breach of the lease under which the premises are held.

(b) When a person holds over premises for 24 hours following service of a written demand for possession for termination of the lease pursuant to a clause in the lease providing for termination because a tenant, a member of the tenant's household, or other person under the tenant's control has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. This subdivision applies only if a formal police report has been filed alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. For purposes of this subdivision, "controlled substance" means a substance or a counterfeit substance classified in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

(c) When a person holds over premises in 1 or more of the following circumstances:

(i) After termination of the lease, pursuant to a power to terminate provided in the lease or implied by law.

(ii) After the term for which the premises are demised to the person or to the person under whom he or she holds.

(iii) After the termination of the person's estate by a notice to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

(d) When the person in possession willfully or negligently causes a serious and continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises, which was discovered or should reasonably have been discovered by the party seeking possession not earlier than 90 days before the institution of proceedings under this chapter and when the person in possession neglects or refuses for 7 days after service of a demand for possession of the premises to deliver up possession of the premises or to substantially restore or repair the premises.

(e) When a person holds over premises for 7 days following service of a written notice to quit for

termination of the lease after the tenant, a member of the tenant's household, or a person under the tenant's control, on real property owned or operated by the tenant's landlord, has caused or threatened physical injury to an individual. This subdivision applies only if the police department with jurisdiction has been notified that the person, on real property owned or operated by the tenant's landlord, caused or threatened physical injury to an individual. This subdivision does not apply in either of the following cases:

(i) The individual who was physically injured or threatened is the tenant or a member of the tenant's household.

(ii) Application would result in a violation of federal housing regulations.

(f) When a person takes possession of premises by means of a forcible entry, holds possession of premises by force after a peaceable entry, or comes into possession of premises by trespass without color of title or other possessory interest. This remedy is in addition to the remedy of entry permitted under section 5711(3).

(g) When a person continues in possession of premises sold by virtue of a mortgage or execution, after the time limited by law for redemption of the premises.

(h) When a person continues in possession of premises sold and conveyed by a personal representative under license from the probate court or under authority in the will.

(2) A tenant or occupant of housing operated by a city, village, township, or other unit of local government, as provided in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or agreement has been terminated for just cause, as provided by lawful rules of the local housing commission or by law.

(3) A tenant of a mobile home park is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or lease agreement is terminated for just cause pursuant to chapter 57a.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1988, Act 336, Eff. May 1, 1989;—Am. 1990, Act 310, Imd. Eff. Dec. 14, 1990;—Am. 2004, Act 105, Eff. Sept. 1, 2004;—Am. 2012, Act 139, Imd. Eff. May 22, 2012;—Am. 2014, Act 223, Eff. Sept. 24, 2014.

#### **600.5716 Demand for possession or payment; form and contents.**

Sec. 5716. A demand for possession or payment shall be in writing, addressed to the person in possession and shall give the address or other brief description of the premises. The reasons for the demand and the time to take remedial action shall be clearly stated. When nonpayment of rent or other sums due under the lease is claimed, the amount due at the time of the demand shall be stated. The demand shall be dated and signed by the person entitled to possession, his attorney or agent.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5718 Demand for possession or payment; service; definitions.**

Sec. 5718. (1) The demand provided for in section 5716 may be served by any of the following means:

(a) Personal delivery to the person in possession.

(b) Personal delivery on the premises to a member of the family or household or an employee of the person in possession, who is of suitable age and discretion, with a request that it be delivered to the person in possession.

(c) First-class mail addressed to the person in possession. If the demand is mailed, the date of service for purposes of this chapter is the next regular day for delivery of mail after the day when it was mailed.

(d) Subject to subsection (2), by electronic service, if the person in possession has in writing specifically consented to electronic service of the demand and if the consent or confirmation of the consent has been sent by 1 party and affirmatively replied to, by electronic transmission, by the other party.

(2) The electronic service address used by a party in the process under subsection (1)(d) shall be considered to remain that party's correct, functioning electronic service address, unless the process under subsection (1)(d) is repeated using a different electronic service address for that party or unless that party notifies the other in writing that that party no longer has an electronic service address. A landlord shall not refuse to enter a lease because the prospective tenant declines to consent to electronic service under this section.

(3) As used in this section:

(a) "Document" means a digital image of a record originally produced on paper or originally created by an electronic means, the output of which is readable by sight and can be printed to paper.

(b) "Electronic notification" means the notification to a person that a document is served by sending an electronic message to the electronic service address at or through which the person has authorized electronic service, specifying the exact name of the document served or providing a hyperlink at which the served document can be viewed and downloaded, or both.

(c) "Electronic service" means service of a document on a person by either electronic transmission or electronic notification.

(d) "Electronic service address" of a person means the electronic address at or through which the person has authorized electronic service.

(e) "Electronic transmission" means the transmission of a document by electronic means to the electronic service address at or through which a person has authorized electronic service.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2015, Act 36, Eff. Aug. 19, 2015.

#### **600.5720 Judgment for possession of premises for alleged termination of tenancy; grounds for not entering; retaliatory termination of tenancy; presumptions; burden.**

Sec. 5720. (1) A judgment for possession of the premises for an alleged termination of tenancy shall not be entered against a defendant if 1 or more of the following is established:

(a) That the alleged termination was intended primarily as a penalty for the defendant's attempt to secure or enforce rights under the lease or agreement or under the laws of the state, of a governmental subdivision of this state, or of the United States.

(b) That the alleged termination was intended primarily as a penalty for the defendant's complaint to a governmental authority with a report of plaintiff's violation of a health or safety code or ordinance.

(c) That the alleged termination was intended primarily as retribution for a lawful act arising out of the tenancy, including membership in a tenant organization and a lawful activity of a tenant organization arising out of the tenancy.

(d) That the alleged termination was of a tenancy in housing operated by a city, village, township, or other unit of local government and was terminated without cause.

(e) That the plaintiff attempted to increase the defendant's obligations under the lease or contract as a penalty for the lawful acts as are described in subdivisions (a) to (c) and that the defendant's failure to perform the additional obligations was the primary reason for the alleged termination of tenancy.

(f) That the plaintiff committed a breach of the lease which excuses the payment of rent if possession is claimed for nonpayment of rent.

(g) That the rent allegedly due, in an action where possession is claimed for nonpayment of rent, was paid into an escrow account under section 130 of Act No. 167 of the Public Acts of 1917, being section 125.530 of the Michigan Compiled Laws; was paid pursuant to a court order under section 134(5) of Act No. 167 of the Public Acts of 1917, as amended, being section 125.534 of the Michigan Compiled Laws; or was paid to a receiver under section 135 of Act No. 167 of the Public Acts of 1917, being section 125.535 of the Michigan Compiled Laws.

(2) If a defendant who alleges a retaliatory termination of the tenancy shows that within 90 days before the commencement of summary proceedings the defendant attempted to secure or enforce rights against the plaintiff or to complain against the plaintiff, as provided in subsection (1)(a), (b), (c), or (e), by means of official action to or through a court or other governmental agency and the official action has not resulted in dismissal or denial of the attempt or complaint, a presumption in favor of the defense of retaliatory termination arises, unless the plaintiff establishes by a preponderance of the evidence that the termination of tenancy was not in retaliation for the acts. If the defendant's alleged attempt to secure or enforce rights or to complain against the plaintiff occurred more than 90 days before the commencement of proceedings or was terminated adversely to the defendant, a presumption adverse to the defense of retaliatory termination arises and the defendant has the burden to establish the defense by a preponderance of the evidence.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1980, Act 75, Imd. Eff. Apr. 3, 1980.

#### **600.5726 Recovery of possession following forfeiture of executory contract for purchase of premises; accelerated indebtedness.**

Sec. 5726. A person entitled to any premises may recover possession thereof by a proceeding under this chapter after forfeiture of an executory contract for the purchase of the premises but only if the terms of the contract expressly provide for termination or forfeiture, or give the vendor the right to declare a forfeiture, in consequence of the nonpayment of any moneys required to be paid under the contract or any other material breach of the contract. For purposes of this chapter, moneys required to be paid under the contract shall not include any accelerated indebtedness by reason of breach of the contract.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5728 Prerequisites to recovery of possession under MCL 600.5726; contents of notice of forfeiture.**

Sec. 5728. (1) Possession may be recovered under section 5726 only after the vendee or person holding possession under him has been served with a written notice of forfeiture and has failed in the required time to pay moneys required to be paid under the contract or to cure any other material breach of the contract. Unless

the parties have agreed in writing to a longer time, the person served with a notice of forfeiture shall have 15 days thereafter before he is required to pay moneys required to be paid under the contract and cure other material breaches of the contract or to deliver possession of the premises.

(2) The notice of forfeiture shall state the names of the parties to the contract and the date of its execution, give the address or legal description of the premises, specify the unpaid amount of moneys required to be paid under the contract and the dates on which payments thereof were due, specify any other material breaches of the contract and shall declare forfeiture of the contract effective in 15 days, or specified longer time, after service of the notice, unless the money required to be paid under the contract is paid and any other material breaches of the contract are cured within that time. The notice shall be dated and signed by the person entitled to possession, his attorney or agent.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5730 Service of notice of forfeiture.**

Sec. 5730. The notice of forfeiture provided for in section 5728 may be served by delivering it personally to the vendee or person holding possession under him or by delivering it on the premises to a member of his family or household or an employee, of suitable age and discretion, with a request that it be delivered to the vendee or person holding possession under him, or by sending it by first-class mail addressed to the last known address of the vendee or the person holding under him. If the notice is mailed, the date of service for purposes of this chapter is the next regular day for delivery of mail after the day when it was mailed. If notice cannot be served by 1 of these methods, it may be served by publication under the provisions of Act No. 235 of the Public Acts of 1929, being sections 554.301 and 554.302 of the Compiled Laws of 1948 and the date of the third publication is the date of service.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5732 Powers of court having jurisdiction over summary proceedings.**

Sec. 5732. Pursuant to applicable court rules, a court having jurisdiction over summary proceedings may provide for pleadings and motions, issue process and subpoenas, compel the attendance and testimony of witnesses, enter and set aside defaults and default judgments, allow amendments to pleadings, process, motions and orders, order adjournments and continuances, make and enforce all other writs and orders and do all other things necessary to hear and determine summary proceedings.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5735 Summons; hearing.**

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

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

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

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

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

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

(a) Within 10 days after service of the summons upon the defendant in proceedings under section 5726.

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

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

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

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

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2001, Act 162, Imd. Eff. Nov. 7, 2001;—Am. 2004, Act 105, Eff. Sept. 1,

**600.5738 Jury trial.**

Sec. 5738. Any party to summary proceedings may demand a trial by jury within the time and manner provided by court rule. Procedures for selecting, impaneling and otherwise governing jurors in such proceedings shall be the same as for a trial by jury in other civil actions in the same court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**600.5739 Joinder of claims and counterclaims for money judgment; separate disposition of claim for possession; damages for labor expended by either landlord or tenant.**

Sec. 5739. (1) Except as provided by court rules, a party to summary proceedings may join claims and counterclaims for money judgment for damages attributable to wrongful entry, detainer, or possession, for breach of the lease or contract under which the premises were held, or for waste or malicious destruction to the premises. The court may order separate summary disposition of the claim for possession, without prejudice to any other claims or counterclaims. A claim or counterclaim for money judgment shall not exceed the amount in controversy that otherwise limits the jurisdiction of the court.

(2) If the court awards damages for physical injury to the premises under subsection (1) by making an award for or based on the cost of repairs, the court shall award damages for labor expended by a landlord or property manager in repairing the premises in the same manner as it would if the repairs were performed by a third party. A landlord's or property manager's labor under this subsection shall be compensated at a rate the court determines to be reasonable based on usual and customary charges for the repairs.

(3) If the court determines that the landlord breached the lease or contract under which the premises were held by failing to repair the premises and awards damages under subsection (1) by making an award for or based on the cost of repairs, the court shall award damages for labor expended by the tenant in repairing the premises in the same manner as it would if the repairs were performed by a third party. A tenant's labor under this subsection shall be compensated at a rate the court determines to be reasonable based on usual and customary charges for the repairs.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2006, Act 147, Eff. July 1, 2006.

**Compiler's note:** Enacting section 1 of Act 147 of 2006 provides:

"Enacting section 1. This amendatory act applies to an action filed after the effective date of this amendatory act."

**600.5741 Entry and enforcement of judgment for possession; determination of amount due; award of costs.**

Sec. 5741. If the jury or the judge finds that the plaintiff is entitled to possession of the premises, or any part thereof, judgment may be entered in accordance with the finding and may be enforced by a writ of restitution as provided in this chapter. If it is found that the plaintiff is entitled to possession of the premises, in consequence of the 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 amount shall be stated in the judgment for possession. In determining the amount due under a tenancy the jury or judge shall deduct any portion of the rent which 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. The statement in the judgment for possession shall be only for the purpose of prescribing the amount which, together with taxed costs, shall be paid to preclude issuance of the writ of restitution. The judgment may include an award of costs, enforceable in the same manner as other civil judgments for money in the same court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

**600.5744 Issuance of writ of restitution; conditions; foreclosure of equitable right of redemption.**

Sec. 5744. (1) Subject to the time restrictions of this section, the court entering a judgment for possession in a summary proceeding shall issue a writ commanding a court officer appointed by or a bailiff of the issuing court, the sheriff or a deputy sheriff of the county in which the issuing court is located, or an officer of the law enforcement agency of the local unit of government in which the issuing court is located to restore the plaintiff to and put the plaintiff in full, peaceful possession of the premises by removing all occupants and all personal property from the premises and doing either of the following:

- (a) Leaving the property in an area open to the public or in the public right-of-way.
- (b) Delivering the property to the sheriff as authorized by the sheriff.

(2) Abandonment of the premises that is the subject of a writ under subsection (1) and of any personal

property on the premises must be determined by the officer, bailiff, sheriff, or deputy sheriff serving the writ.

(3) On conditions determined by the court, a writ of restitution may be issued immediately after the entry of a judgment for possession if any of the following is pleaded and proved, with notice, to the satisfaction of the court:

(a) The premises are subject to inspection and certificate of compliance under the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, and the certificate or temporary certificate has not been issued and the premises have been ordered vacated.

(b) Forcible entry was made contrary to law.

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

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

(e) The tenant, willfully or negligently, is causing a serious and continuing health hazard to exist on the premises or is causing extensive and continuing injury to the premises and is neglecting or refusing either to deliver up possession after demand or to substantially restore or repair the premises.

(f) The action is an action to which section 5714(1)(b) applies.

(4) If a judgment for possession is based on forfeiture of an executory contract for the purchase of the premises, a writ of restitution must not be issued until the expiration of 90 days after the entry of judgment for possession if less than 50% of the purchase price has been paid or until the expiration of 6 months after the entry of judgment for possession if 50% or more of the purchase price has been paid.

(5) If subsections (3) and (4) do not apply, a writ of restitution must not be issued until the expiration of 10 days after the entry of the judgment for possession.

(6) If an appeal is taken or a motion for new trial is filed before the expiration of the period during which a writ of restitution must not be issued and if a bond to stay proceedings is filed, the period during which the writ must not be issued is tolled until the disposition of the appeal or motion for new trial is final.

(7) If a judgment for possession is for nonpayment of money due under a tenancy or for nonpayment of money required to be paid under or any other material breach of an executory contract for purchase of the premises, the writ of restitution must not be issued if, within the time provided, the amount stated in the judgment, with the taxed costs, is paid to the plaintiff and other material breaches of the executory contract for purchase of the premises are cured.

(8) Issuance of a writ of restitution following entry of a judgment for possession because of the forfeiture of an executory contract for the purchase of the premises forecloses any equitable right of redemption that the purchaser has or could claim in the premises.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 105, Eff. Sept. 1, 2004;—Am. 2019, Act 2, Eff. July 2, 2019.

#### **600.5747 Judgment for defendant for costs.**

Sec. 5747. If the plaintiff fails to prosecute his complaint, or if upon trial or motion the plaintiff is found not entitled to possession of the premises, judgment shall be rendered for the defendant for his costs, which shall be taxed and collected in the same manner as other civil judgments for money in the same court.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5750 Summary proceedings not exclusive of other remedies; merging or barring of claims; damages.**

Sec. 5750. 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 judgment for possession after forfeiture of an executory contract for the purchase of premises shall merge and bar any claim for money payments due or in arrears under the contract at the time of trial and that a judgment for possession after forfeiture of such an executory contract which results in the issuance of a writ of restitution shall also bar any claim for money payments which would have become due under the contract subsequent to the time of issuance of the writ. The plaintiff obtaining a judgment for possession of any premises under this chapter is entitled to 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.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

#### **600.5753 Appeal.**

Sec. 5753. Any party aggrieved by the determination or judgment of the court under this chapter may appeal to the circuit court of the same county. The appeal shall be made in the same manner as an appeal in other civil actions from the same court, with bond and procedure as provided by court rules.

**History:** Add. 1972, Act 120, Eff. July 1, 1972.

### **600.5756 Filing fees; disposition.**

Sec. 5756. (1) If the complaint is for the recovery of possession of premises only, the fee for filing a proceeding under this chapter is \$45.00.

(2) If a claim for a money judgment is joined with a claim for the recovery of possession of premises, the plaintiff shall pay a supplemental filing fee in the same amount as established by law for the filing of a claim for a money judgment in the same court.

(3) Of each filing fee collected under this section, at the end of each month, the clerk of the district court shall transmit \$17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the \$5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all \$17.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(4) At the end of each month, the clerk of the district court shall transmit each supplemental filing fee collected under this section in the same manner as a fee under section 8371 for the filing of a claim for money judgment for the same amount is transmitted.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005.

### **600.5757 Fee for certain writs and for judgment debtor discovery subpoena.**

Sec. 5757. A fee of \$15.00 shall be charged for each writ of restitution, garnishment, attachment, or execution and for each judgment debtor discovery subpoena issued.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

### **600.5759 Costs.**

Sec. 5759. (1) In proceedings under this chapter, costs may be allowed in the same amounts as are provided by law in other civil actions in the same court, except that the costs provided by section 2441 shall not apply. The court may also allow as taxable costs an amount not exceeding the following:

- (a) For a motion that results in dismissal or judgment, \$75.00.
- (b) For a judgment taken by default or consent, \$75.00.
- (c) For the trial of a claim for possession only, \$150.00.
- (d) For the trial of a claim for a money judgment only, \$150.00.
- (e) For a trial including both a claim for possession and a claim for a money judgment, \$150.00.

(2) In determining taxable costs in tenancy cases, the judge shall take into consideration whether the jury or judge found that a portion of the rent allegedly due to the plaintiff was excused by reason of the plaintiff's breach of the lease or breach of his or her statutory covenants.

**History:** Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 31, Eff. July 1, 2004.