

# HOUSE BILL No. 5447

January 25, 2018, Introduced by Rep. Lucido and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 5741, 5744, 5750, 5757, and 5781 (MCL  
600.5741, 600.5744, 600.5750, 600.5757, and 600.5781), section 5744  
as amended by 2004 PA 105, section 5757 as amended by 1993 PA 189,  
and section 5781 as added by 1988 PA 336.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5741. ~~If~~**IN AN ACTION UNDER THIS CHAPTER, IF** the jury or  
2       the judge finds that the plaintiff is entitled to possession of the  
3       premises ~~, or any part thereof,~~**OF THE PREMISES,** judgment may be  
4       entered in accordance with the finding and may be enforced by a  
5       ~~writ of restitution~~**AN ORDER OF EVICTION** as provided in this  
6       chapter. If it is found that the plaintiff is entitled to  
7       possession of the premises ~~, in consequence~~**BECAUSE** of the

1 nonpayment of any money due under a tenancy ~~or~~ the nonpayment of  
 2 ~~moneys~~ **MONEY** required to be paid under an executory contract for  
 3 purchase of the premises, the jury or judge making the finding  
 4 shall determine the amount due or in arrears at the time of trial,  
 5 which amount ~~shall~~ **MUST** be stated in the judgment for possession.  
 6 In determining the amount due under a tenancy, the jury or judge  
 7 shall deduct any portion of the rent ~~which~~ **THAT** the jury or judge  
 8 finds to be excused by the plaintiff's breach of the lease or by  
 9 ~~his~~ **THE PLAINTIFF'S** breach of 1 or more statutory covenants imposed  
 10 by section 39 of ~~chapter 66 of the Revised Statutes of 1846~~ **RS 66,**  
 11 ~~as added, being section MCL 554.139. of the Compiled Laws of 1948.~~  
 12 The statement in the judgment for possession ~~shall be~~ **IS** only for  
 13 the purpose of prescribing the amount ~~which~~ **THAT**, together with  
 14 taxed costs, ~~shall~~ **MUST** be paid to preclude issuance of the ~~writ of~~  
 15 ~~restitution.~~ **ORDER OF EVICTION.** The judgment may include an award  
 16 of costs, enforceable in the same manner as other civil judgments  
 17 for money ~~in~~ **ENTERED BY** the ~~same~~ court.

18       Sec. 5744. (1) Subject to the time restrictions of this  
 19 section, the court entering a judgment for possession in ~~a~~ summary  
 20 ~~proceeding~~ **PROCEEDINGS** shall issue ~~a writ~~ **AN ORDER** commanding the  
 21 sheriff, or any other officer authorized to serve the process, to  
 22 restore the plaintiff to ~~and~~ put the plaintiff in ~~full~~  
 23 possession of the premises.

24       (2) On conditions determined by the court, ~~a writ of~~  
 25 ~~restitution~~ **AN ORDER OF EVICTION** may be issued immediately after  
 26 the entry of a judgment for possession ~~when~~ **IF** any of the following  
 27 is pleaded and proved, with notice, to the satisfaction of the

1 court:

2 (a) The premises are subject to inspection and certificate of  
3 compliance under the housing law of Michigan, 1917 PA 167, MCL  
4 125.401 to 125.543, and the certificate or temporary certificate  
5 has not been issued and the premises have been ordered vacated.

6 (b) Forcible entry was made contrary to law.

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

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

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

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

18 (3) When a judgment for possession is based ~~upon~~ **ON** the  
19 forfeiture of an executory contract for the purchase of the  
20 premises, ~~a writ of restitution~~ **THE COURT** shall not ~~be issued~~ **ISSUE**  
21 **AN ORDER OF EVICTION** until the expiration of 90 days after the  
22 entry of judgment for possession if less than 50% of the purchase  
23 price has been paid or until the expiration of 6 months after the  
24 entry of judgment for possession if 50% or more of the purchase  
25 price has been paid.

26 (4) In ~~all cases~~ **SUMMARY PROCEEDINGS** not controlled by  
27 subsection (2) or (3), ~~a writ of restitution~~ **THE COURT** shall not be

1 ~~issued~~ **ISSUE AN ORDER OF EVICTION** until the expiration of 10 days  
 2 after the entry of the judgment for possession.

3 (5) If an appeal is taken or a motion for new trial is filed  
 4 before the expiration of the period during which ~~a writ of~~  
 5 ~~restitution shall~~ **AN ORDER OF EVICTION MAY** not be issued and if a  
 6 bond to stay proceedings is filed, the period during which the writ  
 7 ~~shall~~ **MAY** not be issued ~~shall be~~ **IS** tolled until the disposition of  
 8 the appeal or motion for new trial is final.

9 (6) ~~When~~ **IF** a judgment for possession is for nonpayment of  
 10 money due under a tenancy or for nonpayment of money required to be  
 11 paid under or any other material breach of an executory contract  
 12 for purchase of the premises, the ~~writ of restitution~~ **COURT** shall  
 13 not issue **THE ORDER OF EVICTION** if, within the time provided, the  
 14 amount stated in the judgment, together with the taxed costs, is  
 15 paid to the plaintiff and other material breaches of the executory  
 16 contract for purchase of the premises are cured.

17 (7) Issuance of ~~a writ of restitution following~~ **AN ORDER OF**  
 18 **EVICTION AFTER** entry of a judgment for possession because of the  
 19 forfeiture of an executory contract for the purchase of the  
 20 premises forecloses any equitable right of redemption that the  
 21 purchaser has or could claim in the premises.

22 Sec. 5750. The remedy provided by summary proceedings is in  
 23 addition to, and not exclusive of, other remedies, either legal,  
 24 equitable, or statutory. A judgment for possession under this  
 25 chapter does not merge or bar any other claim for relief, except  
 26 that a judgment for possession after forfeiture of an executory  
 27 contract for the purchase of premises ~~shall merge~~ **MERGES** and ~~bar~~

1 **BARS** any claim for money payments due or in arrears under the  
 2 contract at the time of trial and that a judgment for possession  
 3 after forfeiture of such an executory contract ~~which~~**THAT** results  
 4 in the issuance of a ~~writ of restitution shall~~**AN ORDER OF EVICTION**  
 5 also ~~bar~~**BARS** any claim for money payments ~~which~~**THAT** would have  
 6 become due under the contract ~~subsequent to~~**AFTER** the time of  
 7 issuance of the ~~writ~~. ~~The~~**ORDER. A** plaintiff obtaining a judgment  
 8 for possession of any premises under this chapter ~~is entitled to~~  
 9 **MAY BRING** a civil action against the defendant for damages from the  
 10 ~~time of forcible entry or detainer, or trespass, or of~~**FROM** the  
 11 notice of forfeiture, notice to quit, or demand for possession, as  
 12 ~~the case may be~~**APPLICABLE.**

13 Sec. 5757. ~~A~~**THE COURT SHALL CHARGE A** fee of \$15.00 ~~shall be~~  
 14 ~~charged for each writ of restitution,~~**ORDER OF EVICTION OR WRIT OF**  
 15 garnishment, attachment, or execution and for each judgment debtor  
 16 discovery subpoena issued.

17 Sec. 5781. If a tenancy in a mobile home park is terminated  
 18 for just cause, the tenant may sell his or her mobile home on-site,  
 19 as provided in sections 28(1)(h) and 28a of the mobile home  
 20 commission act, ~~Act No. 96 of the Public Acts of 1987, being~~  
 21 ~~sections~~**1987 PA 96, MCL** 125.2328 and 125.2328a, ~~of the Michigan~~  
 22 ~~Compiled Laws,~~ subject to all of the following conditions:

23 (a) The tenant shall sell or move the mobile home within 90  
 24 days after the date of the judgment of possession, except that the  
 25 time period ~~shall be~~**IS** extended to 90 days after the mobile home  
 26 park owner or operator denies tenancy to a person making a bona  
 27 fide offer to purchase the mobile home within the 90-day period or

1 any proper extension of the time period under this subdivision.

2 (b) The tenant shall timely pay all rent and other charges for  
3 the mobile home site during the 90-day period or any proper  
4 extension of the time period under subdivision (a). Failure to  
5 timely pay all rent or other charges ~~shall entitle~~ **ENTITLES** the  
6 owner or operator to seek an immediate ~~writ of restitution.~~ **ORDER**  
7 **OF EVICTION.** As used in this subdivision, "rent and other charges"  
8 does not include liquidated damages awarded under section 5785.

9 (c) ~~Upon~~ **ON** the expiration of 10 days after the date of the  
10 judgment of possession, the owner or operator may disconnect all  
11 mobile home park-supplied utility services.

12 (d) Within 10 days after the date of the judgment of  
13 possession, the tenant shall provide the owner or operator with  
14 proof that the mobile home has been properly winterized by a  
15 licensed mobile home installer and repairer. Failure to timely  
16 provide the proof of winterization ~~shall entitle~~ **ENTITLES** the owner  
17 or operator to seek an immediate ~~writ of restitution.~~ **ORDER OF**  
18 **EVICTION.**

19 (e) The tenant shall continue to maintain the mobile home and  
20 mobile home site in accordance with the rules and regulations of  
21 the mobile home park.

22 (f) The mobile home park shall provide the tenant with  
23 reasonable access to the mobile home and the mobile home site for  
24 the purpose of maintaining the mobile home and mobile home site and  
25 selling the mobile home.

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