

**SUBSTITUTE FOR
HOUSE BILL NO. 4587**

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



1 finding shall determine the amount due ~~or in arrears~~ at the time of
 2 trial. ~~which~~ **The amount shall due must** be stated in the judgment
 3 for possession. In determining the amount due under a tenancy, the
 4 jury or judge shall ~~deduct~~ **do both of the following:**

5 **(a) Deduct** any portion of the rent ~~which that~~ the jury or
 6 judge finds to be excused by the plaintiff's breach of the lease or
 7 ~~by his breach~~ of 1 or more statutory covenants imposed by section
 8 39 of chapter ~~66~~ of the Revised Statutes of 1846, as added, being
 9 ~~section 554.139 of the Compiled Laws of 1948.~~ **1846 RS 66, MCL**
 10 **554.139.**

11 **(b) If the lease expressly provides for a fee for late payment**
 12 **of rent, add a fee as specified in the lease. However, the amount**
 13 **added may not exceed a monthly fee of the greater of \$50.00 or 10%**
 14 **of the rental amount, unless the lessor demonstrates that a higher**
 15 **late fee specified in the lease is reasonable.**

16 **(2) The statement of the amount due** in the judgment for
 17 possession ~~shall be~~ **is** only for the purpose of prescribing the
 18 amount ~~which, that,~~ together with taxed costs, ~~shall must~~ be paid
 19 to preclude issuance of the writ of restitution **under section 5744.**
 20 The judgment may include an award of costs, **which is** enforceable in
 21 the same manner as other civil judgments for money in the same
 22 court.

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

28 **(a) A** judgment for possession after forfeiture of an executory
 29 contract for the purchase of premises ~~shall merge and bar merges~~



1 **and bars** any claim for money payments due or in arrears under the
 2 contract at the time of trial. ~~and that a~~

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

8 **(2)** The plaintiff obtaining a judgment for possession of any
 9 premises under this chapter ~~is entitled to~~ **may bring** a civil action
 10 against the defendant for damages from the time of forcible entry
 11 or detainer, ~~or trespass, or of the notice of forfeiture, notice to~~
 12 ~~quit, or demand for possession. , as the case may be.~~ **If the lease**
 13 **expressly provides for a fee for late payment of rent, the damages**
 14 **may include a fee as specified in the lease. However, the amount**
 15 **included may not exceed a monthly fee of the greater of \$50.00 or**
 16 **10% of the rental amount, unless the lessor demonstrates that a**
 17 **higher late fee specified in the lease is reasonable.**

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

