

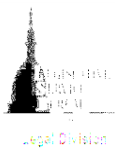
HOUSE BILL NO. 4587

May 15, 2019, Introduced by Rep. Sheppard 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



1 **found to be** entitled to possession of the premises ~~, in consequence~~
 2 ~~of the~~ **because of** nonpayment of any money due under a tenancy ~~, or~~
 3 ~~the nonpayment of moneys required to be paid under an~~ executory
 4 contract for purchase of the premises, the jury or judge making the
 5 finding shall determine the amount due ~~or in arrears~~ at the time of
 6 trial. ~~which~~ **The amount shall due must** be stated in the judgment
 7 for possession. In determining the amount due under a tenancy, the
 8 jury or judge shall ~~deduct~~ **do both of the following:**

9 **(a) Deduct** any portion of the rent ~~which~~ **that** the jury or
 10 judge finds to be excused by the plaintiff's breach of the lease or
 11 ~~by his breach~~ of 1 or more statutory covenants imposed by section
 12 39 of chapter ~~66 of the Revised Statutes of 1846, as added, being~~
 13 ~~section 554.139 of the Compiled Laws of 1948.~~ **1846 RS 66, MCL**
 14 **554.139.**

15 **(b) Add any fee for late payment of rent specified in the**
 16 **lease, but not more than a monthly fee of the greater of \$50.00 or**
 17 **10% of the rental amount, unless the lessor demonstrates that a**
 18 **higher late fee specified in the lease is reasonable.**

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

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



1 ~~that a~~ **as follows:**

2 **(a)** A judgment for possession after forfeiture of an executory
3 contract for the purchase of premises ~~shall merge and bar merges~~
4 **and bars** any claim for money payments due or in arrears under the
5 contract at the time of trial. ~~and that a~~

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

11 **(2)** The plaintiff obtaining a judgment for possession of any
12 premises under this chapter ~~is entitled to~~ **may bring** a civil action
13 against the defendant for damages from the time of forcible entry
14 or detainer, ~~or trespass, or of the~~ notice of forfeiture, notice to
15 quit, or demand for possession. ~~, as the case may be.~~ **The damages**
16 **may include any fees for late payment of rent specified in the**
17 **lease, but not more than a monthly fee of the greater of \$50.00 or**
18 **10% of the rental amount, unless the lessor demonstrates that a**
19 **higher late fee specified in the lease is reasonable.**

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

