

SENATE BILL NO. 3

January 15, 2019, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 5744 (MCL 600.5744), as amended by 2004 PA 105.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5744. (1) Subject to the time restrictions of this
2 section, the court entering a judgment for possession in a summary
3 proceeding shall issue a writ commanding **a court officer or**
4 **bailiff**, the sheriff **or a deputy sheriff**, or any other officer
5 authorized to serve the process, to restore the plaintiff to, and
6 put the plaintiff in, full possession of the premises.

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

5 (a) The premises are subject to inspection and certificate of
 6 compliance under the housing law of Michigan, 1917 PA 167, MCL
 7 125.401 to 125.543, and the certificate or temporary certificate
 8 has not been issued and the premises have been ordered vacated.

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

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

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

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

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

21 (3) ~~When-If~~ a judgment for possession is based ~~upon the-on~~
 22 forfeiture of an executory contract for the purchase of the
 23 premises, a writ of restitution ~~shall-must~~ not be issued until the
 24 expiration of 90 days after the entry of judgment for possession if
 25 less than 50% of the purchase price has been paid or until the
 26 expiration of 6 months after the entry of judgment for possession
 27 if 50% or more of the purchase price has been paid.

28 (4) ~~In all cases not controlled by subsection-If subsections~~
 29 (2) ~~or-and~~ (3) **do not apply**, a writ of restitution ~~shall-must~~ not

1 be issued until the expiration of 10 days after the entry of the
2 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~~**must** not be issued and if a bond to stay
6 proceedings is filed, the period during which the writ ~~shall~~**must**
7 not be issued ~~shall be~~**is** tolled until the disposition of the
8 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 ~~shall~~**must**
13 not ~~issue~~**be issued** if, within the time provided, the amount stated
14 in the judgment, ~~together~~ with the taxed costs, is paid to the
15 plaintiff and other material breaches of the executory contract for
16 purchase of the premises are cured.

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

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