

Legislative Analysis



REQUIRE AWARD OF LATE PAYMENT FEES IN EVICTION SUMMARY PROCEEDINGS

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<http://www.house.mi.gov/hfa>

House Bill 5566 as introduced
Sponsor: Rep. Pat Outman
Committee: Judiciary
Complete to 2-14-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5566 would amend Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to allow a plaintiff in an eviction summary proceeding to collect late payment fees for nonpayment of rent from a defendant.

Currently, when a judge or jury finds that a plaintiff in an eviction summary proceeding is entitled to recover possession of the premises due to nonpayment of any money due under the tenancy or executory contract for purchase of the premises, the judge or jury must state in the judgment for possession the amount due at the time of the trial. In determining that amount, the judge or jury must deduct any portion of the rent that was found to be lawfully withheld from the plaintiff due to the plaintiff's breach of the lease or of certain statutory covenants under section 39 of Chapter 66 of the Revised Statutes of 1846,¹ such as fitness for intended use.

Under the bill, in addition to deducting the above amount, the judge or jury would have to add to the plaintiff's judgment any fee for late payment of rent that was expressly provided for and specified in the lease. However, this added amount could not exceed a monthly fee of the greater of \$50 or 10% of the rental amount, unless the lessor demonstrated that a higher late fee specified in the lease was reasonable.

Additionally, the act currently allows the plaintiff obtaining a judgment for possession of any premises under Chapter 57 to bring a civil action against the defendant for damages from the time of forcible entry or detainer, trespass, notice of forfeiture, notice to quit, or demand for possession.

Under the bill, these damages could also include any fees for late payment of rent in the same amount as allowed in the plaintiff's judgment, as described above.

[Note: In determining late fees, the bill would not distinguish between nonpayment of rent and the withholding of rent due to the plaintiff's breach of the lease or of the statutory covenants described above.]

The bill would take effect 90 days after being enacted.

MCL 600.5741 and 600.5750

¹ MCL 554.139: <http://legislature.mi.gov/doc.aspx?mcl-554-139>

BACKGROUND:

House Bill 5566 is substantively identical to House Bill 4587 of the 2019-20 legislative session as that bill was passed by the House of Representatives.

FISCAL IMPACT:

House Bill 5566 would have no fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.