

# HOUSE BILL NO. 5730

May 14, 2024, Introduced by Rep. Johnsen and referred to the Committee on Economic Development and Small Business.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending section 5714 (MCL 600.5714), as amended by 2014 PA 223,  
and by adding section 5712.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5712. (1) A real property owner or the property owner's  
2 authorized agent may submit to the sheriff of the county in which  
3 the real property is located a completed and verified complaint  
4 requesting the immediate removal of an unlawful occupant of a  
5 residential dwelling under circumstances set forth in the

1 complaint. The complaint shall be in substantially the following  
2 form:

3 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING  
4 RESIDENTIAL REAL PROPERTY

5 This complaint pertains to real property located at  
6 \_\_\_\_\_, Michigan. I declare under  
7 the penalty of perjury that (initial each numbered statement):

8 1. \_\_\_\_ I am the owner of the real property or the authorized  
9 agent of the owner of the described real property.

10 2. \_\_\_\_ I purchased the property on \_\_\_\_\_.

11 3. \_\_\_\_ The property is a residential dwelling.

12 4. \_\_\_\_ A person or persons have unlawfully entered and are  
13 remaining or residing unlawfully on the property.

14 5. \_\_\_\_ The property was not open to members of the public at  
15 the time the person or persons entered.

16 6. \_\_\_\_ I have directed the person or persons to leave the  
17 property, but they have not done so.

18 7. \_\_\_\_ The person or persons are not current or former  
19 tenants pursuant to a valid lease authorized by the property owner  
20 or current tenants pursuant to a valid lease authorized by the  
21 property owner's predecessor in interest, and any such lease that  
22 may be produced by an occupant is fraudulent.

23 8. \_\_\_\_ The person or persons are not owners or a co-owners of  
24 the property and are not listed on the title to the property unless  
25 the person or persons have engaged in title fraud.

26 9. \_\_\_\_ The person or persons are not immediate family members  
27 of the property owner.

28 10. \_\_\_\_ There is no litigation related to the property  
29 pending between the property owner and the person or persons

1 occupying the property.

2 11. \_\_\_\_ I understand that a person or persons removed from  
3 the property pursuant to this procedure may bring a cause of action  
4 against me for any false statements made in this complaint, or for  
5 wrongfully using this procedure, and that, as a result, I may be  
6 held liable for actual damages, penalties, costs, and reasonable  
7 attorney fees.

8 12. \_\_\_\_ I request the sheriff to immediately remove the  
9 person or persons from the property.

10 13. \_\_\_\_ A copy of my valid government-issued identification  
11 is attached, or I am an agent of the property owner, and documents  
12 evidencing my authority to act on the property owner's behalf are  
13 attached.

14 I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND EACH  
15 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THIS COMPLAINT IS  
16 BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN  
17 SECTION 423 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.423.

18

---

19 (Signature of Property Owner or Agent of Owner)

20 (2) Upon receipt of the complaint, the sheriff shall verify  
21 that the person submitting the complaint is the record owner of the  
22 real property or the authorized agent of the owner and appears  
23 otherwise entitled to relief under this section. Upon so verifying,  
24 the sheriff shall, without delay, serve a notice to immediately  
25 vacate on all the unlawful occupants and shall put the owner in  
26 possession of the real property. Service may be accomplished by  
27 hand delivery of the notice to an occupant or by posting the notice  
28 on the front door or entrance of the dwelling. The sheriff shall  
29 also attempt to verify the identities of all persons occupying the

1 dwelling and note the identities on the return of service. If  
2 appropriate, the sheriff may arrest any person found in the  
3 dwelling for trespass, outstanding warrants, or any other legal  
4 cause.

5 (3) The sheriff is entitled to the same fee for service of the  
6 notice to immediately vacate as if the sheriff were serving an  
7 order of eviction under section 2559 and each unlawful occupant of  
8 the property were a defendant. After the sheriff serves the notice  
9 to immediately vacate, the property owner or authorized agent may  
10 request that the sheriff stand by to keep the peace while the  
11 property owner or agent of the owner changes the locks and removes  
12 the personal property of the unlawful occupants from the premises  
13 to or near the property line. The person requesting the sheriff to  
14 stand by and keep the peace is responsible for paying a reasonable  
15 hourly rate set by the sheriff for so doing. The sheriff is not  
16 liable to the unlawful occupant or any other party for loss,  
17 destruction, or damage of property. The property owner or the  
18 property owner's authorized agent is not liable to an unlawful  
19 occupant or any other party for loss, destruction, or damage to the  
20 personal property unless the removal was wrongful.

21 (4) A person may bring a civil cause of action for wrongful  
22 removal under this section. A person harmed by a wrongful removal  
23 under this section may be restored to possession of the real  
24 property and may recover actual costs and damages incurred,  
25 statutory damages equal to triple the fair market rent of the  
26 dwelling, court costs, and reasonable attorney fees. The court  
27 shall advance the cause on the calendar.

28 (5) This section does not limit the rights of a property owner  
29 or limit the authority of a law enforcement officer to arrest an

1 **unlawful occupant for trespassing, vandalism, theft, or other**  
2 **crimes.**

3       Sec. 5714. (1) A person entitled to possession of premises may  
4 recover possession by summary proceedings in the following  
5 circumstances:

6       (a) When a person holds over premises after failing or  
7 refusing to pay rent due under the lease or agreement by which the  
8 person holds the premises within 7 days from the service of a  
9 written demand for possession for nonpayment of the rent due. For  
10 the purpose of this subdivision, rent due does not include any  
11 accelerated indebtedness because of a breach of the lease under  
12 which the premises are held.

13       (b) When a person holds over premises for 24 hours following  
14 service of a written demand for possession for termination of the  
15 lease pursuant to a clause in the lease providing for termination  
16 because a tenant, a member of the tenant's household, or other  
17 person under the tenant's control has unlawfully manufactured,  
18 delivered, possessed with intent to deliver, or possessed a  
19 controlled substance on the leased premises. This subdivision  
20 applies only if a formal police report has been filed alleging that  
21 the person has unlawfully manufactured, delivered, possessed with  
22 intent to deliver, or possessed a controlled substance on the  
23 leased premises. For purposes of this subdivision, "controlled  
24 substance" means a substance or a counterfeit substance classified  
25 in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the  
26 public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

27       (c) When a person holds over premises in 1 or more of the  
28 following circumstances:

29       (i) After termination of the lease, pursuant to a power to

1 terminate provided in the lease or implied by law.

2 (ii) After the term for which the premises are demised to the  
3 person or to the person under whom he or she holds.

4 (iii) After the termination of the person's estate by a notice  
5 to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

6 (d) When the person in possession willfully or negligently  
7 causes a serious and continuing health hazard to exist on the  
8 premises, or causes extensive and continuing physical injury to the  
9 premises, which was discovered or should reasonably have been  
10 discovered by the party seeking possession not earlier than 90 days  
11 before the institution of proceedings under this chapter and when  
12 the person in possession neglects or refuses for 7 days after  
13 service of a demand for possession of the premises to deliver up  
14 possession of the premises or to substantially restore or repair  
15 the premises.

16 (e) When a person holds over premises for 7 days following  
17 service of a written notice to quit for termination of ~~the~~<sup>a</sup> lease  
18 after the tenant, a member of the tenant's household, or a person  
19 under the tenant's control, on real property owned or operated by  
20 the tenant's landlord, has caused or threatened physical injury to  
21 an individual. This subdivision applies only if the police  
22 department with jurisdiction has been notified that the person, on  
23 real property owned or operated by the tenant's landlord, caused or  
24 threatened physical injury to an individual. This subdivision does  
25 not apply in either of the following cases:

26 (i) The individual who was physically injured or threatened is  
27 the tenant or a member of the tenant's household.

28 (ii) Application would result in a violation of federal housing  
29 regulations.

1 (f) When a person takes possession of premises by means of a  
2 forcible entry, holds possession of premises by force after a  
3 peaceable entry, or comes into possession of premises by trespass  
4 without color of title or other possessory interest. This remedy is  
5 in addition to the remedy of entry permitted under ~~section~~**sections**  
6 5711(3) **and 5712.**

7 (g) When a person continues in possession of premises sold by  
8 virtue of a mortgage or execution, after the time limited by law  
9 for redemption of the premises.

10 (h) When a person continues in possession of premises sold and  
11 conveyed by a personal representative under license from the  
12 probate court or under authority in the will.

13 (2) A tenant or occupant of housing operated by a city,  
14 village, township, or other unit of local government, as provided  
15 in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered  
16 to be holding over under subsection (1)(b) or (c) unless the  
17 tenancy or agreement has been terminated for just cause, as  
18 provided by lawful rules of the local housing commission or by law.

19 (3) A tenant of a mobile home park is not considered to be  
20 holding over under subsection (1)(b) or (c) unless the tenancy or  
21 lease agreement is terminated for just cause pursuant to chapter  
22 57a.