

# HOUSE BILL NO. 5764

May 30, 2024, Introduced by Reps. Young, Wilson, Weiss, Price, O'Neal, Hope, Morgan, Tsernoglou and Brenda Carter 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 sections 5720, 5741, and 5759 (MCL 600.5720, 600.5741,  
and 600.5759), section 5720 as amended by 1980 PA 75 and section  
5759 as amended by 2004 PA 31.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5720. (1) A **court shall not enter a** judgment **against a**  
2 **defendant** for possession of the premises for an alleged termination  
3 of tenancy ~~shall not be entered against a defendant if 1 or more of~~  
4 the following is established:

1 (a) That the alleged termination was intended primarily as a  
 2 penalty for the defendant's attempt to secure or enforce rights  
 3 under the lease or agreement or under the laws of ~~the~~**this** state,  
 4 of a governmental subdivision of this state, or of the United  
 5 States.

6 (b) That the alleged termination was intended primarily as a  
 7 penalty for the defendant's complaint to a governmental authority  
 8 with a report of plaintiff's violation of a health or safety code  
 9 or ordinance.

10 (c) That the alleged termination was intended primarily as  
 11 retribution for a lawful act arising out of the tenancy, including  
 12 membership in a tenant organization and a lawful activity of a  
 13 tenant organization arising out of the tenancy.

14 (d) That the alleged termination was of a tenancy in housing  
 15 operated by a city, village, township, or other unit of local  
 16 government and was terminated without cause.

17 (e) That the plaintiff attempted to increase the defendant's  
 18 obligations under the lease or contract as a penalty for the lawful  
 19 acts as are described in subdivisions (a) to (c) and that the  
 20 defendant's failure to perform the additional obligations was the  
 21 primary reason for the alleged termination of tenancy.

22 (f) That the plaintiff committed a breach of the lease ~~which~~  
 23 **that** excuses the payment of rent if possession is claimed for  
 24 nonpayment of rent.

25 (g) That the rent allegedly due, in an action ~~where~~**in which**  
 26 possession is claimed for nonpayment of rent, was ~~paid into an~~  
 27 ~~escrow account~~**waived because of the plaintiff's failure to**  
 28 **maintain a certificate of compliance** under section 130 of ~~Act No.~~  
 29 ~~167 of the Public Acts of 1917, being section~~**the housing law of**

1 ~~Michigan, 1917 PA 167, MCL 125.530, of the Michigan Compiled Laws,~~  
 2 was paid pursuant to **in accordance with** a court order under section  
 3 134(5) of ~~Act No. 167 of the Public Acts of 1917, as amended, being~~  
 4 ~~section~~ **the housing law of Michigan, 1917 PA 167, MCL 125.534, of**  
 5 ~~the Michigan Compiled Laws;~~ or was paid to a receiver under section  
 6 135 of ~~Act No. 167 of the Public Acts of 1917, being section~~ **the**  
 7 **housing law of Michigan, 1917 PA 167, MCL 125.535.** ~~of the Michigan~~  
 8 ~~Compiled Laws.~~

9 (2) If a defendant who alleges a retaliatory termination of  
 10 the tenancy shows that within 90 days before the commencement of  
 11 summary proceedings the defendant attempted to secure or enforce  
 12 rights against the plaintiff or to complain against the plaintiff,  
 13 as provided in subsection (1)(a), (b), (c), or (e), by means of  
 14 official action to or through a court or other governmental agency  
 15 and the official action has not resulted in dismissal or denial of  
 16 the attempt or complaint, a presumption in favor of the defense of  
 17 retaliatory termination arises, unless the plaintiff establishes by  
 18 a preponderance of the evidence that the termination of tenancy was  
 19 not in retaliation for the acts. If the defendant's alleged attempt  
 20 to secure or enforce rights or to complain against the plaintiff  
 21 occurred more than 90 days before the commencement of proceedings  
 22 or was terminated adversely to the defendant, a presumption adverse  
 23 to the defense of retaliatory termination arises and the defendant  
 24 has the burden to establish the defense by a preponderance of the  
 25 evidence.

26 Sec. 5741. (1) ~~If~~ **In summary proceedings under this chapter,**  
 27 **if** the jury or the judge finds that the plaintiff is entitled to  
 28 possession of the premises, or any part thereof, ~~of the premises,~~  
 29 judgment may be entered in accordance with the finding and may be

1 enforced by a writ of restitution as provided in this chapter. If  
 2 it is found that the plaintiff is entitled to possession of the  
 3 premises ~~, in consequence~~ **because** of the nonpayment of any money  
 4 due under a tenancy ~~, or the nonpayment of moneys~~ **money** required to  
 5 be paid under an executory contract for purchase of the premises,  
 6 the jury or judge making the finding shall determine the amount due  
 7 or in arrears at the time of trial, which amount ~~shall~~ **must** be  
 8 stated in the judgment for possession.

9 (2) In determining the amount due under a tenancy **as provided**  
 10 **in subsection (1)**, the jury or judge shall deduct ~~any portion of~~  
 11 ~~the rent which~~ **a prorated per-day rental amount for each day that**  
 12 the jury or judge finds **the plaintiff** to be ~~excused by the~~  
 13 ~~plaintiff's~~ **have been in** breach of the lease or ~~by his~~ **in** breach of  
 14 1 or more statutory covenants imposed by section 39 of ~~chapter 66~~  
 15 ~~of the Revised Statutes of 1846, as added, being section 554.139 of~~  
 16 ~~the Compiled Laws of 1948.~~ **1846 RS 66, MCL 554.139. The amount**  
 17 **deducted under this subsection may be the entire amount of the rent**  
 18 **if appropriate under the jury's or judge's determination.**

19 (3) If the jury or judge finds the plaintiff to have been in  
 20 breach of the lease or of 1 or more statutory covenants as  
 21 described in subsection (2), the amount due stated in the judgment  
 22 for possession under subsection (1) must not include any late fee,  
 23 and the plaintiff may not recover any late fee in the summary  
 24 proceedings or in any other action.

25 (4) The statement **of an amount** in the judgment for possession  
 26 ~~shall be under subsection (1) is~~ only for the purpose of  
 27 prescribing the amount ~~which, together that,~~ with taxed costs,  
 28 ~~shall~~ **must** be paid to preclude issuance of the writ of restitution.  
 29 The judgment may include an award of costs, enforceable in the same

manner as other civil judgments for money in the same court.

Sec. 5759. (1) In proceedings under this chapter, costs may be allowed in the same amounts as are provided by law in other civil actions in the same court, except that the costs provided by section 2441 ~~shall~~**do** not apply. The court may also allow as taxable costs an amount not exceeding the following:

(a) For a motion that results in dismissal or judgment, \$75.00.

(b) For a judgment taken by default or consent, \$75.00.

(c) For the trial of a claim for possession only, \$150.00.

(d) For the trial of a claim for a money judgment only, \$150.00.

(e) For a trial including both a claim for possession and a claim for a money judgment, \$150.00.

(2) In determining taxable costs in tenancy cases, the judge shall take into consideration whether the jury or judge found that a portion of the rent allegedly due to the plaintiff was excused ~~by reason~~**because** of the plaintiff's breach of the lease or breach of his or her statutory covenants. **The judge may decide to not award a plaintiff any costs in accordance with this subsection.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 102nd Legislature are enacted into law:

(a) Senate Bill No. \_\_\_\_ or House Bill No. 5763 (request no. 04072'23).

(b) Senate Bill No. \_\_\_\_ or House Bill No. 5761 (request no. 04074'23).