



SENATE BILL No. 1258

September 21, 1994, Introduced by Senator HOFFMAN and
referred to the Committee on Local Government and
Urban Development

A bill to amend section 5744 of Act No 236 of the Public
Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

being section 600 5744 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 5744 of Act No 236 of the Public Acts
2 of 1961, being section 600 5744 of the Michigan Compiled Laws, is
3 amended to read as follows

4 Sec 5744 (1) Subject to the time restrictions of this
5 section, the court entering a judgment for possession shall issue
6 a writ commanding the sheriff, or any other officer authorized to
7 serve the process, to cause the plaintiff to be restored and put
8 in full possession of the premises

9 (2) On conditions determined by the court, the writ of
10 restitution may be issued ~~forthwith~~ IMMEDIATELY upon the entry

1 of judgment for possession ~~when~~ IF any of the following is
2 pleaded and proved, with notice, to the satisfaction of the
3 court

4 (a) The premises are subject to inspection and certificate
5 of compliance under THE HOUSING LAW OF MICHIGAN, Act No 167 of
6 the Public Acts of 1917, as amended, being sections 125 401 to
7 125 543 of the MICHIGAN Compiled Laws ~~of 1948~~ and the certifi-
8 cate or temporary certificate has not been issued and the
9 premises have been ordered vacated

10 (b) Forcible entry was made contrary to law

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

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

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

21 (3) ~~When~~ IF the judgment for possession is based upon the
22 forfeiture of an executory contract for the purchase of the
23 premises, the writ of restitution shall not be issued until the
24 expiration of 90 days after the entry of judgment for possession
25 if 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

1 (4) ~~In all other cases~~ EXCEPT AS PROVIDED IN SUBSECTION
2 (3), the writ of restitution shall not be issued until the expi-
3 ration of 10 days after the entry of the judgment for
4 possession

5 (5) If an appeal is taken or a motion for new trial is filed
6 before the expiration of the period during which the writ of res-
7 titution shall not be issued and if a bond to stay proceedings is
8 filed, the period during which the writ shall not be issued
9 ~~shall be~~ IS tolled until the disposition of the appeal or
10 motion for new trial is final

11 (6) ~~When~~ IF the judgment for possession is for nonpayment
12 of money due under a tenancy, ~~or~~ for nonpayment of ~~moneys~~
13 MONEY required to be paid under AN EXECUTORY CONTRACT FOR THE
14 PURCHASE OF THE PREMISES, or FOR any other material breach of an
15 executory contract for purchase of the premises, the writ of res-
16 titution shall not issue if, within the time provided, the amount
17 ~~as~~ stated in the judgment, together with the taxed costs, is
18 paid to the plaintiff and other material breaches of an executory
19 contract for purchase of the premises are cured

20 (7) Issuance of the writ of restitution, based on a judgment
21 for possession ~~in consequence of~~ DUE TO the forfeiture of an
22 executory contract for the purchase of the premises, ~~shall~~
23 ~~foreclose~~ FORECLOSES any equitable right of redemption ~~which~~
24 THAT the purchaser might have or claim in the premises

25 (8) A WRIT OF RESTITUTION ISSUED UNDER THIS SECTION SHALL
26 PROVIDE THAT ALL PROPERTY THAT IS REMOVED FROM THE PREMISES AND
27 PLACED ON PUBLIC PROPERTY DURING AN EVICTION SHALL BE PROPERLY

1 DISPOSED OF BY 1 OF THE PARTIES TO THE LITIGATION THE PARTY
2 RESPONSIBLE FOR THE REMOVAL OF THE PROPERTY SHALL BE NAMED IN THE
3 WRIT