

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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CHAPTER 82.

CONFESSION OF JUDGMENT WITHOUT ACTION
[AND SUBMISSION OF AGREED CASE].

- (1) Confession of Judgment, §§ 6077-6082.
- (2) Submitting a Controversy without Action, §§ 6083, 6084.

(1) CONFESSION OF JUDGMENT.

§ 6077. Judgment by confession, when allowed.

A judgment by confession may be entered without action, either for money due, or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter.

(G. S. 1866, c. 82, § 1; G. S. 1878, c. 82, § 1.)

§ 6078. Statement to be made—Contents thereof.

A statement in writing shall be made, signed by the defendant, and verified by his oath, to the following effect:

First. It shall authorize the entry of judgment for a specified sum.

Second. If it is for money due, or to become due, it shall state concisely the facts out of which it arose, and show that the sum confessed therefor is justly due, or to become due.

Third. If it is for the purpose of securing the plaintiff against a contingent liability, it shall state concisely the facts constituting the liability, and show that the sum confessed therefor, does not exceed the same.

(G. S. 1866, c. 82, § 2; G. S. 1878, c. 82, § 2.)

A statement for judgment by confession should state, not merely the evidence of the debt which the parties have made, as the note, bond, or other writing, but also the facts furnishing the consideration for such note or other writing, far enough to put creditors of the party confessing judgment on inquiry as to the existence of the facts, and direct them so that they can make such inquiry. Stating that the writing was upon full and valuable consideration, without stating its character, is not enough. *Wells v. Gieseke*, 27 Minn. 478, 8 N. W. Rep. 380.

Where the statement is for two or more liabilities, if there be no actual intent to defraud, the judgment may be vacated as to those insufficiently stated, and allowed to stand as to the others. *Id.*

The court cannot allow an amendment *nunc pro tunc* of an insufficient statement for judgment by confession, so as to affect the rights of creditors who have subsequently acquired liens and who have begun proceedings to avoid the judgment. *Id.*

Signing an affidavit verifying a statement for confession of judgment is, under Comp. St. c. 74, sufficient signing of such confession. *Kern v. Chalfant*, 7 Minn. 487, (Gil. 393.)

A confession of judgment for a contingent liability stated that the same was for liability incurred by plaintiff in indorsing a bond for defendant, for the amount confessed. Held insufficient, it not showing a liability incurred in good faith. *Id.*

§ 6079. Filing of statement—Entry of judgment—Judgment-roll.

The statement may be filed with the clerk of the district court, who shall indorse upon it, and enter in a judgment-book, a judgment of the district court for the amount computed. The statement and verification, with the judgment indorsed thereon, become the judgment-roll.

(G. S. 1866, c. 82, § 3; G. S. 1878, c. 82, § 3.)

The indorsement of judgment on the statement filed, and the entry of judgment in the judgment book, are each an original. The omission of either, the other being made, does not render void a docketing of the judgment or an execution issued on it. *Wells v. Gieseke*, 27 Minn. 478, 8 N. W. Rep. 380.

§ 6080. Judgment on plea of confession.

Judgment may also be rendered in the district court in vacation, or in term, upon a plea of confession signed by an attorney of such court, although there

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is no action then pending between the parties, if the following provisions are complied with, and not otherwise:

First. The authority for confessing such judgment shall be in some proper instrument, distinct from that containing the bond, contract, or other evidence of the demand for which judgment is confessed;

Second. Such authority shall be filed with the clerk of the court in which the judgment is entered, at the time of filing and docketing such judgment.

(G. S. 1866, c. 82, § 4, as amended 1870, c. 68, § 1; G. S. 1878, c. 82, § 4.)

§ 6081. Same—May be entered by clerk.

When the authority mentioned in the last section is filed with the clerk of the district court, judgment may be entered thereon, in the same manner as is provided in section one of this chapter.

(G. S. 1866, c. 82, § 5; G. S. 1878, c. 82, § 5.)

§ 6082. Effect of such judgments.

Any judgment entered, under either of the provisions of this chapter, in vacation, shall be as final and effectual as judgment rendered upon a verdict of a jury; and unless special provision is made for a stay of execution upon such judgment, execution may issue immediately.

(G. S. 1866, c. 82, § 6; G. S. 1878, c. 82, § 6.)

(2) SUBMITTING A CONTROVERSY WITHOUT ACTION.

§ 6083. Matter in dispute may be submitted to court, when and how.

Parties to a matter in dispute which might be the subject of a civil action may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought; but it shall appear by affidavit that the controversy is real, and the proceedings in good faith, to determine the rights of the parties; the court shall thereupon hear and determine the case at a general or special term, and render judgment thereon, as in civil actions.

(G. S. 1866, c. 82, § 7; G. S. 1878, c. 82, § 7.)

§ 6084. Judgment, how entered—Judgment-roll.

Judgment shall be entered in the judgment-book, as in other cases. The case, submission, and a copy of the judgment, constitute the judgment-roll, and judgment may be enforced in the same manner as if it had been rendered in an action, and is in the same manner subject to appeal.

(G. S. 1866, c. 82, § 8; G. S. 1878, c. 82, § 8.)

(1644)