

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
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CHAPTER 74.

CONFESSION OF JUDGMENT WITHOUT ACTION.

SECTION

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SECTION

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[Chapter 84, Revised Statutes.]

Judgment by confession in certain cases.

(1.) SEC. I. 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.

Statement in writing, what it must contain

(2.) SEC. II. A statement in writing must be made, signed by the defendant, and verified by his oath, to the following effect:

- 1. It must authorize the entry of judgment for a specified sum;
- 2. If it be for money due, or to become due, it must state concisely the facts out of which it arose, and must show that the sum confessed therefor is justly due, or to become due;
- 3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and must show that the sum confessed therefor, does not exceed the same.

Statement to be filed and clerk to enter judgment.

(3.) SEC. III. The statement may be filed with the clerk of the district court, who must indorse upon it, and enter in the judgment book a judgment of the district court for the amount computed, with five dollars costs. The statement, and affidavit with the judgment indorsed thereupon, become the judgment roll.

Plea of confession signed by attorney.

(4.) SEC. IV. Judgments may also be entered in the district court in vacation, or in term, upon a plea of confession signed by an attorney of such court, although there be no suit then pending between the parties, if the following provisions be complied with, and not otherwise:

- 1. 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;
- 2. Such authority shall be produced to the officer signing such judgment, and shall be filed with the clerk of the court in which the judgment shall be entered at the time of filing and docketing such judgment.

Authority must be filed with the clerk.

(5.) SEC. V. When the authority mentioned in the last section shall have been 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.

Judgment shall be binding and effectual.

(6.) SEC. VI. 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 be made for a stay of execution upon such judgment, execution may issue immediately upon the [rendition] of such judgment.

Handwritten notes:
"indorsed by clerk"
"district court"
"457"

SUBMITTING A CONTROVERSY WITHOUT ACTION.

(7.) SEC. VII. Parties to a question in difference, 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 must appear by affidavit that the controversy is real, and the proceedings in good faith, to determine the rights of the parties; the court must thereupon hear and determine the case at a general term, and render judgment thereon, as if an action were depending.

Parties may submit controversy without action.

(8.) SEC. VIII. Judgment must be entered in the judgment book, as in other cases, but without costs for any proceeding prior to notice of trial. The case, the submission, and a copy of the judgment, constitute a judgment roll.

Judgment same as in other cases, but without costs.

(9.) SEC. IX. The 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 an appeal.

Judgment may be enforced or appealed from as in an action.

CHAPTER 75.

FORECLOSURE OF MORTGAGES BY ADVERTISEMENT.

SECTION

- 1. Mortgage of real estate may be foreclosed in certain cases by advertisement.
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- 23. Injunction to stay waste by mortgageor.

Land with Chapter 75, Revised Statutes, Mortgagee's Lien, Chap 48 1860

(1.) SEC. I. Every mortgage of real estate, containing therein a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement, in the cases and in the manner hereinafter specified.

Mortgage of real estate may be foreclosed in certain cases by advertisement.

(2.) SEC. II. To entitle any party to give a notice as hereinafter prescribed, and to make such foreclosure, it shall be requisite:

What requisite to entitle party to foreclose.

- 1. That some default in a condition of such mortgage shall have accrued, by which the power to sell [has] become operative;
- 2. That no suit or proceeding shall have been instituted, at law, to recover the debt then remaining secured by such mortgage, or any part thereof; or if any suit or proceeding has been instituted, that the same