

TITLE 3

REMEDIES AND SPECIAL ACTIONS AND PROCEEDINGS

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Chapter 26

1961 REPLACEMENT PART (1973 reprint)

Judgments and Decrees by Confession

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CROSS REFERENCES

Appeal from a judgment or decree given by confession, 19.020
Contents of entry of judgment or decree given by confession, 18.070

Residential Landlord and Tenant Act, prohibited provisions in rental agreements, 91.745

CONFESSION AFTER COMMENCEMENT OF SUIT OR ACTION

26.010 Plaintiff's assent required; limitation on judgment or decree. On the confession of the defendant, with the assent of the plaintiff or his attorney, a judgment or decree may be given against the defendant in any action or suit, before or after answer, for any amount not exceeding or relief different from that demanded in the complaint.

26.020 Who may confess judgment. (1) When the action or suit is against the state, a county or other public corporation therein, or a private corporation, or a minor, the confession shall be made by the person who at the time sustains the relation to such state, county, corporation or minor, as would authorize the service of a summons upon him.

(2) When the action or suit is against a person for whom a guardian of the estate has been appointed, the confession, with prior approval by order of the court in which the guardianship proceeding is pending, may be made by the guardian of the estate.

(3) When the action or suit is against an incompetent or minor for whom a guardian of the estate has not been appointed but a guardian ad litem for such incompetent or minor has been appointed, the confession, with prior approval by order of the court in which the action or suit is pending, may be made by the guardian ad litem.

(4) In all other cases the confession shall be made by the defendant in person.
[Amended by 1961 c.344 §100]

26.030 Judgment or decree against several defendants on confession of one. When the action or suit is upon a contract, and against one or more defendants jointly liable, judgment or decree may be given on the confession of one or more defendants against all the defendants thus jointly liable, whether such defendants have been served with summons or not, to be enforced only against their joint property, and against the joint and separate property of the defendant making the confession.

26.040 Form and procedure. The confession and assent thereto shall be in writing, subscribed by the parties or their attorneys, and acknowledged by each before some officer authorized to take acknowledgments of deeds; but such acknowledgment is not required when the parties or their attorneys shall appear in court when the judgment or decree is given, or before the clerk in vacation by whom the judgment or decree is entered. In all cases, the confession and assent thereto, and the acknowledgment, if any, shall be filed with the clerk.

CONFESSION WITHOUT ACTION

26.110 Circumstances under which confession can be made. On the confession of any person capable of being made a party defendant to an action at law, judgment may be given against such person, without action, in term time or vacation, in favor of any person for money due or to become due, or to secure any person against contingent liability on behalf of the defendant in such judgment, or both, if it be in favor of the same person.

26.120 Form and procedure. The confession shall be made, assented to and acknowledged, and judgment given in the same manner as a confession in an action pending; besides which, the confession shall be verified by the oath of the party making it, and shall authorize a judgment to be given for a particular sum. If it be for money due or to become due, it shall state plainly and concisely the facts out of which such indebtedness arose, and shall show that the sum confessed is justly due or to become due.

26.130 Contingent liability; judgment payable in instalments. If the confession is to secure the plaintiff in the judgment against a contingent liability, it shall state plainly and concisely the facts constituting such liability, and shall show that the sum confessed does not exceed the liability. When the judgment is payable in instalments, execution may issue to enforce the payment of the instalments as they become due.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel