

CHAPTER 678

SUBMITTING CONTROVERSIES WITHOUT ACTION OR IN ACTION

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678.1 Agreed statement of facts.

Parties to a question in difference, which might be the subject of a civil action, may, without action, present an agreed statement of the facts to any court having jurisdiction of the subject matter.

[C51, §1843; R60, §3408; C73, §3408; C97, §4377; C24, 27, 31, 35, 39, §12686; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.1]

678.2 Affidavit.

It must be shown by affidavit that the controversy is real, and that the proceeding is in good faith to determine the rights of the parties thereto.

[C51, §1844; R60, §3409; C73, §3409; C97, §4378; C24, 27, 31, 35, 39, §12687; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.2]

678.3 Judgment.

The court shall hear and determine the case and render judgment as if an action were pending.

[C51, §1845; R60, §3410; C73, §3410; C97, §4379; C24, 27, 31, 35, 39, §12688; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.3]

678.4 Record.

The statement, the submission, and the judgment shall constitute the record.

[R60, §3411; C73, §3411; C97, §4380; C24, 27, 31, 35, 39, §12689; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.4]

678.5 Judgment enforced.

The judgment shall be with costs, and it may be enforced and shall be subject to review in the same manner as if it had been rendered in an action, unless otherwise provided for in the submission.

[R60, §3412; C73, §3412; C97, §4381; C24, 27, 31, 35, 39, §12690; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.5]

678.6 Submission of cause pending.

The same may also be done at any time before trial in an action pending, subject to the same requirements and attended by the same results as in a case without action.

[R60, §3413; C73, §3413; C97, §4382; C24, 27, 31, 35, 39, §12691; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.6]

678.7 Pleadings abandoned — lien and custody of property.

Such submission of a stated case shall be an abandonment by both parties of all pleadings filed in such cause, and the cause shall stand on the agreed case alone, which must provide for any lien created for attachment, and for any property in the custody of the law, else such lien and custody will be held to be waived.

[R60, §3413; C73, §3413; C97, §4382; C24, 27, 31, 35, 39, §12692; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.7]

678.8 Submission of question of law — agreement as to judgment.

The parties may, if they think fit, enter into an agreement in writing that, upon the judgment of the court being given on the question of law raised, particular property therein described, or a sum of money fixed by the parties or to be ascertained by the court or in such manner as the court may direct, shall be delivered to and vested in one of the parties by the other, or, in case of money, shall be paid by one of such parties to the other of them, either with or without costs of the action; and the judgment of the court may be entered for the transfer and delivery of such property, or for such sum as shall be so agreed or ascertained, with or without costs, as the case may be.

[R60, §3414; C73, §3414; C97, §4383; C24, 27, 31, 35, 39, §12693; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.8]

678.9 Costs.

In case no agreement is entered into as to the costs, they shall follow the event of the action, and be recovered by the successful party.

[R60, §3415; C73, §3415; C97, §4384; C24, 27, 31, 35, 39, §12694; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §678.9]