

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2145 Open account or account stated; proof, counterclaim.

Sec. 2145. In all actions brought in any of the courts of this state, to recover the amount due on an open account or upon an account stated, if the plaintiff or someone in his behalf makes an affidavit of the amount due, as near as he can estimate the same, over and above all legal counterclaims and annexes thereto a copy of said account, and cause a copy of said affidavit and account to be served upon the defendant, with a copy of the complaint filed in the cause or with the process by which such action is commenced, such affidavit shall be deemed prima facie evidence of such indebtedness, unless the defendant with his answer, by himself or agent, makes an affidavit and serves a copy thereof on the plaintiff or his attorney, denying the same. If the defendant in any action gives notice, with his answer of a counterclaim founded upon an open account, or upon an account stated, and annexes to such answer and notice a copy of such account, and an affidavit made by himself or by someone in his behalf, showing the amount or balance claimed by the defendant upon such account, and that such amount or balance is justly owing and due to the defendant, or that he is justly entitled to have such account, or said balance thereof, set off against the claim made by said plaintiff, and serves a copy of such account and affidavit, with a copy of such answer and notice, upon the plaintiff or his attorney, such affidavit shall be deemed prima facie evidence of such counterclaim, and of the plaintiff's liability thereon, unless the plaintiff, or someone in his behalf, within 10 days after such service in causes in the circuit court, and before trial in other cases, makes an affidavit denying such account or some part thereof, and the plaintiff's indebtedness or liability thereon and serves a copy thereof upon the defendant or his attorney, and in case of a denial of part of such counterclaim, the defendant's affidavit shall be deemed to be prima facie evidence of such part of the counterclaim as is not denied by the plaintiff's affidavit. Any affidavit in this section mentioned shall be deemed sufficient if the same is made within 10 days next preceding the issuing of the writ or filing of the complaint or answer.

History: 1961, Act 236, Eff. Jan. 1, 1963.



MICHIGAN LEGISLATURE

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Section 600.2906

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REVISED JUDICATURE ACT OF 1961 (EXCERPT) Act 236 of 1961

600.2906 Confession of judgment.

Sec. 2906.

Judgments may be entered in any circuit court at any time, upon a plea of confession, signed by an attorney of such court, although there is no suit then pending between the parties, if the following provisions are 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 such judgment was confessed;
- (2) Such authority shall be produced to the officer signing each judgment, and shall be filed with the clerk of the court in which the judgment shall be entered, at the time of the filing and docketing of such judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963

[SMALL BUSINESS](#)

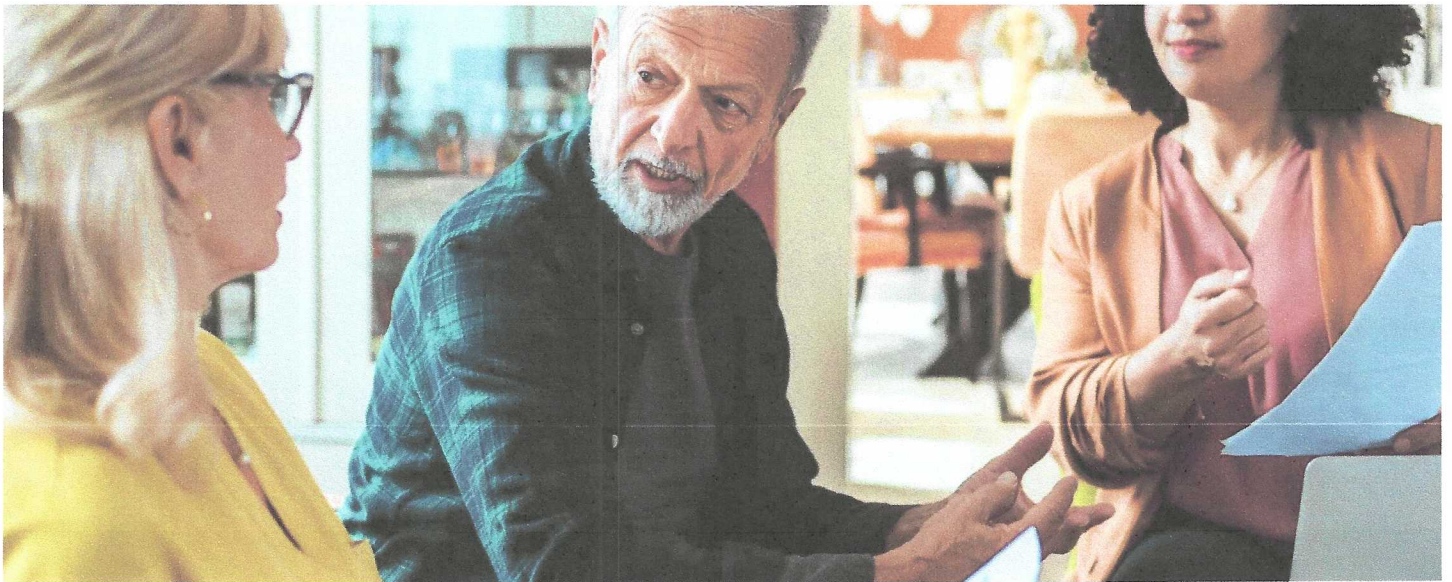
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Confession of Judgment: What Is It and How Does It Work?

You could be at risk of losing your assets or more if you sign a confession of judgment.

By [Olivia Chen](#)

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✓ Edited by [Sally Lauckner](#)

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As a part of a [business loan agreement](#), you may be asked to sign a confession of judgment — a document that, in the event of a loan default, lets a lender bypass the normal legal process before obtaining a court judgment that allows it to seize your assets. Small-business owners should exercise caution before signing a confession of judgment. If a lender decides to enforce a confession of judgment, an owner may end up losing their business.

Although confessions of judgment have been around for decades, many small-business owners don't realize how powerful they can be. Confessions of judgment can seriously limit your rights, so it's important to understand exactly how they work and what you can do if one is used against you.

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What is a confession of judgment?

A confession of judgment is a legal document that may be signed as part of a business loan agreement at closing. It allows a lender to bypass a lawsuit and obtain a court-ordered judgment to begin collecting on debt after a [loan default](#). That means a borrower may not be notified that a judgment has been granted and will have no chance to defend themselves or try to rectify the situation because they have essentially already pleaded guilty.

How does a confession of judgment work?

A confession of judgment, which may also be referred to as a cognovit note, has no legal effect on you until it is filed in court by your lender and an attorney. That means there's a chance it will never come into play as long as you make on-time payments and finish paying off your debt.

If you have signed a confession of judgment and then defaulted on your loan — which generally means you have stopped making payments — your lender can enter the signed judgment against you in court without giving you any notice. You won't be able to prepare a legal defense or, in most cases, work with your lender to come up with a modified payment plan.

Essentially, a confession of judgment signed by a borrower acts as an automatic guilty plea to a lender's legal complaint. Once entered in court and signed by a judge, the judgment allows the lender to collect on any pledged collateral or other assets, and the lender can possibly place a lien on your business's receivables.

Why do lenders ask for a confession of judgment?

Confessions of judgment on consumer loans are outlawed by the Federal Trade Commission but are still legal on [business loans](#) in certain states: Illinois, Maryland, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania, Virginia and Texas. Even in states where they are legal, the majority of lenders do not use confessions of judgment. They are most commonly requested by less-regulated lenders or [merchant cash advance](#) and [equipment financing companies](#). Some commercial landlords and online loan companies may use them as well.

A confession of judgment can be attractive to creditors because it makes it easier for them to collect on debts. They don't have to spend time and resources on filing a lawsuit through the normal legal process. In theory, it can be a way for a lender to test a prospective borrower's intention to repay the debt since it only becomes legally valid once it's filed with a court. But given the historical abuse of the document by predatory companies, confessions of judgment are not used by most reputable lenders. If a lender is asking you to sign a confession of judgment, you should reconsider taking out a loan with that company.

» **MORE:** [What is predatory lending?](#)


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What to do if you've signed a confession of judgment

You should avoid signing a confession of judgment, if at all possible. If you think signing a confession of judgment is unavoidable or if you have already signed one, there are a few steps you can take.

- **Have a lawyer look at your business loan agreement.** An attorney can help you understand what you're getting into and your avenues out, if necessary.
- **Be certain you can afford the loan.** It's never a good idea to take out a loan you can't afford, but be especially cautious if you are handing over your rights to defend yourself in court. Talk to a financial professional or loan officer, and use a [business loan calculator](#) to run some numbers.
- **Make sure you understand the definition of "default" according to your specific lending institution.** The conversion of a confession of judgment into an actual court-ordered judgment is first triggered by a loan default. The definition of default can be specific to a lending institution. To avoid being in default, make sure you understand exactly what it means according to your loan documents.
- **Ask the lender to remove the clause.** If you feel you are out of loan options or won't qualify with other lenders, consider speaking with your loan officer about removing the confession of judgment. If the lender has your best interest in mind, it's something it may consider, especially if there are other ways to secure your loan.

» **MORE:** [Collateral for business loans: how much do you need?](#)

Frequently asked questions

What happens after a confession of judgment? ^

After you have signed a confession of judgment, there may be no effect at all, particularly if you make all your debt payments on time. But if you default on your loan and the lender decides to pursue a judgment, you may lose your assets, receivables or even your business.

What states allow a confession of judgment? v

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About the author



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Olivia Chen is a NerdWallet Small Business Writer with 5+ years of experience working in the CDFI lending world.

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REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2809 Judgment lien; expiration; rerecording; tolling or suspension of time period; judgment lien extinguished.

Sec. 2809. (1) Unless subsection (2) or (3) applies, a judgment lien expires 5 years after the date it is recorded.

(2) Unless subsection (3) applies, if a judgment lien is rerecorded under subsection (4), the judgment lien expires 5 years after the date it is rerecorded.

(3) If the judgment expires before the judgment lien expires, the judgment lien expires on the date that the judgment expires.

(4) A judgment lien may be rerecorded only once. A judgment lien is rerecorded by recording with the register of deeds, not less than 120 days before the initial expiration date under subsection (1), a second notice of judgment lien that has been certified by the clerk of the court that entered the judgment.

(5) The filing of a state or federal insolvency proceeding by the judgment debtor does not toll or suspend the time period in which a judgment lien is effective.

(6) A judgment lien is extinguished when 1 or more of the following are recorded with the office of the register of deeds where the judgment lien is recorded:

(a) A discharge of judgment lien signed by the judgment creditor or the judgment creditor's attorney.

(b) A certified copy of a satisfaction of judgment that has been filed with the court that issued the judgment.

(c) A certified copy of a court order that discharges the judgment lien.

(d) A copy of the judgment debtor's discharge in bankruptcy issued by a United States bankruptcy court and a copy of the bankruptcy schedule listing the judgment debt. This subdivision does not apply if an order entered in the judgment debtor's bankruptcy case determining that the debt is nondischargeable is recorded with the register of deeds.

History: Add. 2004, Act 136, Eff. Sept. 1, 2004.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5809 Action to enforce noncontractual money obligations; limitations.

Sec. 5809. (1) A person shall not bring or maintain an action to enforce a noncontractual money obligation unless, after the claim first accrued to the person or to someone through whom he or she claims, the person commences the action within the applicable period of time prescribed by this section.

(2) The period of limitations is 2 years for an action for the recovery of a penalty or forfeiture based on a penal statute brought in the name of the people of this state.

(3) Except as provided in subsection (4), the period of limitations is 10 years for an action founded upon a judgment or decree rendered in a court of record of this state, or in a court of record of the United States or of another state of the United States, from the time of the rendition of the judgment or decree. The period of limitations is 6 years for an action founded upon a judgment or decree rendered in a court not of record of this state, or of another state, from the time of the rendition of the judgment or decree. A judgment entered in the district court of this state before May 25, 1973, is a judgment of a court not of record. A judgment entered in the district court of this state on or after May 25, 1973, except a judgment entered in the small claims division of the district court, is a judgment of a court of record. Within the applicable period of limitations prescribed by this subsection, an action may be brought upon the judgment or decree for a new judgment or decree. The new judgment or decree is subject to this subsection.

(4) For an action to enforce a support order that is enforceable under the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws, the period of limitations is 10 years from the date that the last support payment is due under the support order regardless of whether or not the last payment is made.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975;—Am. 1976, Act 444, Imd. Eff. Jan. 13, 1977;—Am. 1996, Act 275, Eff. Jan. 1, 1997.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6023 Property exempt from levy and sale under execution; lien excluded from exemption; homestead exemption; rents and profits.

Sec. 6023. (1) The following property of a judgment debtor and the judgment debtor's dependents is exempt from levy and sale under an execution:

(a) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person and his or her family, and provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(b) All household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000.00.

(c) A seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in a house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of the judgment debtor.

(d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters, and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping the animals and poultry for 6 months.

(e) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged, not exceeding in value \$1,000.00.

(f) Any money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of the insured person, whether the debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that the exemption under this subdivision does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(g) A homestead of not more than 40 acres of land and the dwelling house and appurtenances on that homestead that is not included in a recorded plat, city, or village, or, at the option of the owner, a quantity of land that consists of not more than 1 lot that is within a recorded town plat, city, or village, and the dwelling house and appurtenances on that land, owned and occupied by any resident of this state, not exceeding in value \$3,500.00. This exemption applies to any house that is owned, occupied, and claimed as a homestead by a person but that is on land not owned by the person. However, this exemption does not apply to a mortgage on the homestead that is lawfully obtained. A mortgage is not valid for purposes of this subdivision without the signature of a married judgment debtor's spouse unless either of the following occurs:

(i) The mortgage is given to secure the payment of the purchase money or a portion of the purchase money.

(ii) The mortgage is recorded in the office of the register of deeds of the county in which the property is located, for a period of 25 years, and no notice of a claim of invalidity is filed in that office during the 25 years following the recording of the mortgage.

(h) An equity of redemption as described in section 6060.

(i) The homestead of a family, after the death of the owner of the homestead, from the payment of his or her debts in all cases during the minority of his or her children.

(j) An individual retirement account or individual retirement annuity as defined in section 408 or 408a of the internal revenue code of 1986, 26 USC 408 and 408a, and the payments or distributions from the account or annuity. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of the bankruptcy code, 11 USC 522. This exemption does not apply to any amounts contributed to the individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to an individual retirement account or individual retirement annuity to the extent that any of the following occur:

(i) The individual retirement account or individual retirement annuity is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) The individual retirement account or individual retirement annuity is subject to an order of a court concerning child support.

(iii) Contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, exceed, in the tax year made or paid, the deductible amount allowed under section 408 of the internal revenue code of 1986, 26 USC 408. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code of 1986, 26 USC 403.

(k) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, 26 USC 401, or an annuity contract under section

403(b) of the internal revenue code of 1986, 26 USC 403, if the plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption applies to the operation of the federal bankruptcy code, as permitted by section 522(b)(2) of the bankruptcy code, 11 USC 522. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest in the plan or annuity is subject to either of the following:

(i) An order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) An order of a court concerning child support.

(I) Any interest in the following:

(i) A trust, fund, or advance tuition payment contract established under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442.

(ii) An account established under the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(iii) An account in a qualified tuition program or educational savings trust under section 529 or 530 of the internal revenue code of 1986, 26 USC 529 and 530.

(2) The exemptions provided in this section do not extend to any lien on the exempt property that is excluded from exemption by law.

(3) If the owner of a homestead dies, leaving a surviving spouse but no children, the homestead is exempt, and the rents and profits of the homestead shall accrue to the benefit of the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 73, Imd. Eff. May 12, 1964;—Am. 1984, Act 83, Imd. Eff. Apr. 19, 1984;—Am. 1989, Act 5, Imd. Eff. Apr. 19, 1989;—Am. 1998, Act 61, Imd. Eff. Apr. 20, 1998;—Am. 2012, Act 553, Imd. Eff. Jan. 2, 2013.